Wednesday,
8th December, 1954

LOK SABHA DEBATES

VOLUME IX, 1954

(6th to 24th December 1954)

सत्यमेव जयते

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EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT
NEW DELHI

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LOK SABHA DEBATES
(Part I—Questions and Answers)

Dated: 02.12.2014

LOK SABHA

Wednesday, 8th December, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

ब्रिटिश शासन कालीन स्मारकों का परिरक्षण

***८६९. डा० रामा राव :** क्या शिक्षा मंत्री २३ सितम्बर, १९५४ को तारांकित प्रश्न संख्या १२८७ पर पूछे गये अनुपूरक प्रश्न के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) ब्रिटिश शासन-कालीन स्मारकों के परिरक्षण के सम्बन्ध में भारत सरकार ने विभिन्न राज्यों को जो परिपत्र भेजा था उसके उत्तर में उनके पास से क्या क्या सुझाव प्राप्त हुये हैं ;

(ख) क्या इस सम्बन्ध में सरकार ने कोई राष्ट्रीय नीति बनाई है ; और

(ग) यदि हां, वह नीति किस प्रकार की है और उसको क्रियान्वित करने के लिये क्या कार्यवाही की गई है ?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) A statement is laid on the Table of the House. [*See* Appendix IV, annexure No. 20.]

(b) Not yet, Sir.

(c) Does not arise.

Dr. Rama Rao: In view of the fact that the status of well-known imperialists are subjected to all sorts of wear and tear, do Government contemplate shifting them to suitable museums?

Dr. M. M. Das: That is the question so far as the status of the British period are concerned.

Shri Bhagwat Jha Azad: The statement gives only the names of a few States which have given their opinion either for removal or for non-removal. May I know if the hon. Minister is aware of the fact that in most of the States the feeling is that they should be removed and put in some museum or other place?

Dr. M. M. Das: The whole matter is still under examination.

PROPAGATION OF HINDI

***871. Shri Krishnacharya Joshi:** Will the Minister of Education be pleased to state:

(a) whether the Government of India have transferred the responsibility for the propagation of Hindi to State Governments; and

(b) if so, the total amount given to the States for this purpose?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No, Sir. While the Central Government are financing a number of schemes of their own for the propagation of Hindi in the country, the State Governments have also formulated schemes under the first Five-Year Plan, the expenditure on which is shared by the Central Government.

(b) Attention of the hon. Member is invited to the statement laid on the Table of the House on 3rd December, 1954 in reply to Starred Question No. 724.

श्री कृष्णाचार्य जोशी: क्या यह सच है कि शिक्षा मंत्री सम्मेलन में यह निश्चय किया गया था कि अहिन्दी भाषी प्रदेश में हिन्दी

प्रचार की जिम्मेवारी राज्य सरकारों पर रहेगी ?

Dr. M. M. Das: Yes, Sir, that is a fact. But the only change contemplated in the decision taken in that from now onwards, barring *ad hoc* grants to certain all-India organisations, all grants for the propagation of Hindi will be given to the State Governments and not direct to Hindi organisations.

श्री कृष्णाचार्य जोशी : क्या केन्द्रीय सरकार ने इस सम्बन्ध में राज्य सरकारों के नाम कोई आदेश-पत्र भेजा है ?

Mr. Speaker: Have they sent any directions to the State Governments?

Dr. M. M. Das: Yes, Sir, the Ministers of the *rajya sarkars* were present in the Conference.

Mr. Speaker: Have the Central Government issued any instructions to the State Governments after the conference?

Dr. M. M. Das: I would like to have notice for that.

Shri T. S. A. Chettiar: May I know whether the Government of India have given lump sum grants to the States for the propagation of Hindi or do they expect definite proposals to be implemented on the approval of the Central Government?

Dr. M. M. Das: The State Governments were asked to submit schemes to the Central Government and grants have been given only upon those schemes which were approved by the Central Government.

सेठ गोविन्द दास : उस दिन मंत्री जी ने यह कहा था और आज भी उन्होंनें कहा है कि कुछ अखिल भारतीय संस्थाओं को भी ये अनुदान दिये जाने वाले हैं । मैं ने उन से यह पूछा था कि क्या राष्ट्रभाषा प्रचार समिति वार्धा को भी इस प्रकार का कोई अनुदान दिया गया है या दिया जाने वाला है, तो उन्होंने उसके उत्तर में कहा था कि वह दिया गया है । लेकिन वह अनुदान उनको नहीं दिया गया है । इसलिये मैं पूछना चाहता हूं कि इस पर कुछ विचार हो गया है या हो रहा है क्योंकि वह एक अखिल भारतीय संस्था है ।

Dr. M. M. Das: I am sorry, Sir. On that day I was speaking from memory and my memory betrayed me and I was wrong. But, so far as this Rashtra Bhasha Prachar Samiti is concerned, they applied for a grant but we informed them that after the State Ministers' Conference, grants are given only to the State Governments and so they have to send their application to the Government of the State in which they want to work.

PROHIBITION

***874. Shri Dabhi:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government have taken any steps to introduce prohibition in the Part 'C' States; and

(b) if so, what are they?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). Information has been asked for from the States and will be laid on the Table of the House in due course.

Shri Dabhi: May I know whether Government have given any advice to the State Governments regarding the introduction of prohibition in those States?

Shri Datar: The Government are not in a position to give the information.

Shri Dabhi: May I know the policy of the Government with regard to the introduction of prohibition in Part C States?

Shri Datar: So far as prohibition is concerned, we have a number of Governments in Part C States and so we have left the matter to the Ministries concerned.

Shri Dabhi: Is it not a fact that no Part C State Governments have introduced prohibition in their States?

Shri Datar: I believe they have not yet introduced complete prohibition though they are taking some steps to control the use of liquor.

Shri T. S. A. Chettiar: May I know whether, before taking any steps in this direction, Government will go into the fact whether total prohibition is working well in those States in which prohibition is working?

Shri Datar: That is a very large question on which I cannot commit Government.

EXPORTS TO NEPAL

*876. **Shri Bibhuti Mishra**: Will the Minister of **Finance** be pleased to state:

(a) whether Government are aware that goods exported to Nepal are imported back to India at Raxual and various border towns for selling them in the Indian Markets; and

(b) if so, whether Government have taken any effective steps to check this?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): (a) Sir, Government have reason to believe that the suggestion made in the question is not correct.

(b) The question does not arise.

श्री विभूति मिश्र: में जानना चाहता हूं कि क्या मंत्री जी ने अपने दफ्तर से या किसी और जरिये से इसको दरयाफ्त किया है ?

श्री ए० सी० गुहा: जरूर दरयाफ्त किया है । जो तीन स्टेटें नेपाल के नजदीक हैं यानी वैस्ट बंगाल, बिहार और उत्तर प्रदेश इन तीनों स्टेटों से पूछा गया था और उन्होंने बताया है कि कोई ऐसा ट्रैफिक नहीं होता ।

The Central Government have also got no such information.

श्री विभूति मिश्र: लेकिन मैं वहां का रहने वाला हूं और मुझे पता है कि ऐसा होता है । क्या मंत्री महोदय फिर दरयाफ्त करने की कोशिश करेंगे ?

Shri A. C. Guha: Sir, I can only say that there is no economic incentive for such traffic because there is no customs barrier and usually there is no customs duty. Whatever duty is collected on excisable articles and on foreign imported goods, an entire rebate is given to the Nepal Government and not to individual traders. So, there is absolutely no incentive for such traffic.

Shri Bhagwat Jha Azad: Are the Government aware that the rock salt, licence for which was given to a Nepalee merchant for a large number of wagons, has been re-imported into India from Rauxal beyond which it did not go?

Shri A. C. Guha: I do not think the information is correct; at least I have no such information.

Shri Bhagwat Jha Azad: That is wrong information.

POOR HOUSES

*878. **Shri Bhagwat Jha Azad**: Will the Minister of **Home Affairs** be pleased to state:

(a) the number of Poor Houses maintained by Government in the Centrally Administered Areas;

(b) whether Government have any specific scheme to tackle the beggar problem; and

(c) whether any uniform policy has been framed for solving the beggar problem in the States also?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The information is being collected and will be laid on the Table of the House in due course.

(c) No.

Shri Bhagwat Jha Azad: The question is about Poor Houses in India. May I know if the Government has got any Poor House in India so that information is being collected?

Shri Datar: Sir, we are dealing with the question of Poor Houses maintained by Government in the Centrally Administered areas and Part C States. There are different States and information is to be collected and called for and then placed on the Table of the House.

Shri Bhagwat Jha Azad: May I know whether these Poor Houses which are being maintained by the Central Government are under the Central administration or within the State administration?

Mr. Speaker: Order, order. He is carrying on an argument as to why information is not available. The Minister has clearly stated that even if it is Centrally Administered area, the administration is through an agency and the information has to be collected through that agency.

Shri Bhagwat Jha Azad: I have given notice of the question ten days ahead.

CENTRAL BUREAU OF TEXT BOOK RESEARCH

*879. **Shri Jhulan Sinha**: Will the Minister of **Education** be pleased to state:

(a) the main achievements of the Central Bureau of Text Book Research; and

(b) the total **expenditure incurred so** far?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). A statement is laid on the Table of the Sabha. [*See* Appendix IV, annexure No. 21.]

Shri Jhulan Sinha: May I know if the Bureau have evolved certain criteria or principles for publishing textbooks in conformity with the requirements of the country?

Dr. M. M. Das: The object of the Bureau is to improve all school textbooks. Their functions are as follows:

(i) making a critical survey of the current text book literature;

(ii) formulation of sound educational criteria and guiding principles for writing text-books; and

(iii) preparation of a comprehensive scheme of school book writing, and lastly

(iv) making a beginning with the preparation of model textbooks.

Shri Bhagwat Jha Azad: The statement says that 100 books have been analysed, and that the State Governments have been brought into touch and principles have been laid down. May I know whether in these 3½ years of the Five Year Plan any text-books have been actually translated?

Dr. M. M. Das: For the information of the hon. Member, I beg to submit that the Bureau was set up in May, 1954.

BHARAT ELECTRONICS FACTORY

*881. **Shri T. B. Vittal Rao**: Will the Minister of **Defence** be pleased to lay a statement on the Table of the House showing:

(a) the amount already paid to the contracting French firm on account of the technical advice, training of technicians, machinery and other services provided for the Bharat Electronics Factory, **Bangalore**;

(b) the nature of machinery and other supplies made and services already rendered to India;

(c) the value of the machinery and supplies delivered;

(d) the number of technicians who have been trained to date and the number among them who are ready to take up their jobs; and

(e) the original estimate of the cost of factory and the present estimate?

The Deputy Minister of Defence (Shri Satish Chandra): (a) and (b). A sum of Rs. 5,27,000 has so far been paid to the French firm on account of the technical assistance and services rendered in connection with the drafting of the specifications of the machine tools and purchase of the equipment, for the submission of plans for layout of the Factory, and for training technicians. The plant, machinery and equipment are purchased directly by the Government of India through normal channels, according to the advice rendered by the firm.

(c) Standard machine tools and electronics equipment valued at Rs. 1·48 lakhs approximately have already arrived at Bangalore.

(d) 12 technicians have been trained by the firm in France, and are now employed as Instructors in the Training School in India.

(e) There has been no change in the original estimate of Rs. 7 crores Capital expenditure.

Shri T. B. Vittal Rao: May I know when the training school and the research centre which are to be attached to the factory will start?

Shri Satish Chandra: I have said just now that the training school has already started functioning. There are two French instructors and 12 Indian instructors who were trained in France and are now working as instructors in the school.

Shri T. B. Vittal Rao: It is reported in the papers that the original estimate of Rs. 7 crores has now been revised and it has been increased to Rs. 9·5 crores. May I know the reasons for it?

Shri Satish Chandra: There has been no increase in the estimate. The capital expenditure will be Rs. 7 crores and the working capital Rs. 2·5 crores.

Shri G. S. Singh: May I know whether the products of the factory are intended solely to equip the Defence Forces or are they intended for the general public?

Shri Satish Chandra: The products of the factory will also be utilised by the Communications Ministry, Railway Ministry and the radio-communication industry in general.

Shri Damodara Menon: May I know the number of trainees in the training school?

Shri Satish Chandra: The number at present is 40, but it will be raised ultimately to 150.

FOREIGN NATIONALS IN GOVERNMENT SERVICE

***882. Shri Tushar Chatterjea:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of foreign nationals who are serving the Government of India as Officers either in a temporary capacity or otherwise; and

(b) whether any special salaries are given to any of them?

The Deputy Minister of Home Affairs (Shri Datar): (a) The number of officers on a temporary or contract basis, as on 1st December, 1954 was 115. Information about permanent officers which is not readily available, is being collected and will be laid on the Table of the House in due course.

(b) No, but the persons appointed on contract are paid according to their qualifications.

Shri Tushar Chatterjea: May I know the nationalities of these foreign nationals?

Shri Datar: They are from different nationalities.

Shri Tushar Chatterjea: What are those nationalities?

Mr. Speaker: Is the list very long?

Shri Datar: The list is very long. They are from Britain, Australia, Poland, Switzerland, Japan etc.

Shri Tushar Chatterjea: I want the number from each.

Mr. Speaker: Can he give the number from each country? Has he got the information at hand?

Shri Datar: Sir, I shall give them. They are: 13 from Britain; 2 from Australia—I have not got them country-wise, the total number is 115.

Shrimati Tarkeshwari Sinha: May I know whether Government had asked from State Governments information regarding employment of non-Indians in their service and whether Government have received any information so far?

Shri Datar: Sir, if is the policy of the Government of India to restrict the number of foreigners in Indian appointments. Whenever any such appointment has to be made the matter is referred to Home Ministry. We have laid down certain rules that as far as possible Indians should be appointed. Where Indians of necessary qualifications are not available, then non-Indians are appointed, and there also, attempts are made to train Indians.

Shri Joachim Alva: Sir, may I know...

Mr. Speaker: We will go to the next question. This question has been dealt with in this House a number of times.

Shri Joachim Alva: It is an important question.

Mr. Speaker: It is an important question, but the Government can be relied upon to see that Indians alone are appointed. What is the use of asking this question over and over again?

GEOCHEMICAL PROSPECTING

***884. Shri Radha Raman:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether it is a fact that a new system of Geological exploration called "geochemical prospecting" has been introduced in India;

(b) under whose supervision has this new system been introduced; and

(c) what are the main achievements and discoveries made with the help of this new system?

The Minister in the Ministry of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) to (c). Yes, Sir. The Geological Survey of India has started geochemical prospecting in India very recently and it is too early to expect results.

Shri Radha Raman: May I know if there are any special features of this system and in what way it differs from the present system employed by the Government?

Shri K. D. Malaviya: The system of geo-chemical prospecting is a system where scientists are expected to collect samples of soils and different rocks and carry out scientific investigations for locating traces of important minerals. This system is totally different from the existing systems basically.

Shri Radha Raman: May I know in how many cases Government have tried this system which has recently been introduced?

Shri K. D. Malaviya: It has just been started and it is premature to say anything about the achievements.

INTER-UNIVERSITY YOUTH FESTIVAL

***885. Shri Sanganna:** Will the Minister of **Education** be pleased to state;

(a) whether the State Governments have contributed any amount towards the celebration of the Inter-University Youth Festival held in New Delhi during the first week of November, 1954;

(b) if so, to what extent and in what way; and

(c) if the answer to part (a) above be in the negative, the reasons therefor?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No.

(b) Does not arise.

(c) They were not asked to do so.

I may add, Sir, that this Youth Festival was sponsored by the Government of India and as it was an inter-university affair, the State Governments are not asked to contribute towards the expenditure.

Shri Sanganna: May I know whether the Government have received any complaint to the effect that the delegations who participated in this festival were not treated and looked after well; if so what is the reaction of Government?

Dr. M. M. Das: Up till now we have received no complaints at all.

Shri Sanganna: May I know the agency through which this festival was celebrated?

Dr. M. M. Das: Agency?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Education Ministry.

Shri Radha Raman: May I know whether this Inter-University Youth Festival is going to be an annual feature?

Dr. M. M. Das: That proposal is under examination.

Shri M. S. Gurupadaswamy: What is the total amount spent by Government of India on this festival?

Dr. M. M. Das: According to the bills that we have received up till now and the expenditure that we have incurred, the total expenditure is Rs. 1,07,940-4-0. This is not the final statement of accounts; some bills are still pending payment.

Shri N. B. Chowdhury: May I know whether any sanction has been accorded to the estimated expenditure in this connection?

Dr. M. M. Das: There was a provision in the current year's Budget to the extent of Rs. 2 lakhs for this Youth Festival.

PENSIONS FOR *Ex*-SERVICEMEN

***886. Kumari Annie Mascarene**: Will the Minister of **Defence** be pleased to state:

(a) whether the *ex*-servicemen in Travancore-Cochin State are given their pension according to the new Pension Code; and

(b) what is the difference between the new Pension Code and that applicable to the Travancore-Cochin State *ex*-servicemen?

The Minister of Defence Organisation (Shri Tyagi): (a) No, Sir.

(b) A statement is placed on the Table of the Sabha. [*See* Appendix IV, annexure No. 22.]

Kumari Annie Mascarene: May I know whether Government have received a memorandum from the *ex*-servicemen of Travancore-Cochin State?

Shri Tyagi: I have no information about any particular representation, but individual representations are generally received.

Kumari Annie Mascarene: May I know the reasons for giving differential treatment to *ex*-servicemen in the same State of Travancore?

Shri Tyagi: At the time of integration all those who were not integrated into the Indian army were given three options of retirement. One was to choose to retire on the usual benefits sanctioned by the State rules; second was to go by the benefits of the rate of pension and gratuity sanctioned according to the old army scales of Government of India and the third was to go on gratuity or pension on the basis of mustering of rates and every individual exercised his own choice.

Kumari Annie Mascarene: May I know when Government propose to apply the code rules to the *ex*-servicemen of Travancore-Cochin State?

Shri Tyagi: I could not follow the question.

Mr. Speaker: Whether Government intend to apply these rules of option to *ex*-servicemen of Travancore-Cochin?

Shri Tyagi: If the hon. Member means by *ex*-servicemen those who had retired before the integration took place, well, then, the retiring benefits of pensions to those men is the liability of the State and not of the Centre.

Kumari Annie Mascarene: That is not my question. I want to know when the code rules are going to be applied to Travancore-Cochin State?

Shri Tyagi: Perhaps the hon. Member means application of the latest pension code rules. If that is her meaning I may inform her that the new Pension Code has been sanctioned on the basis of the new Pay Code. Because the new Pay Code came into operation in 1950, the pays of all the soldiers were raised and therefore, the new Pension Code had to come.

Kumari Annie Mascarene: I mean the old Pension Code.

DIVISION OF ASSETS AND LIABILITIES

***890. Shrimati Tarkeshwari Sinha:** Will the Minister of States be pleased to state:

(a) the value of assets and liabilities that will be received by the Hyderabad Government as a result of the division of assets and liabilities between the Central and the State Governments under the Federal Financial Integration Agreement; and

(b) whether the Government of India will make the payments by instalments or in a lump-sum?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). The division of the assets and liabilities of the former Hyderabad State under the Federal Financial Integration Agreement has not yet been finalised.

There is no question of any payments being made to the Government of Hyderabad. What is contemplated is an allocation of the assets and liabilities of the former Hyderabad State between the Central and the State Governments on a functional basis in accordance with Article 295 of the Constitution.

Shrimati Tarkeshwari Sinha: Can we have an idea of the amount so involved in the distribution of the assets and liabilities of the Hyderabad Government?

Dr. Katju: I cannot give the information as the matter is under consideration. I expect that it will soon be finalised.

श्रीमती कमलेंदुमति शाह : क्या यह सत्य बात है कि निष्क्रांत सम्पत्तियों पर नक़ली मालिक अपना क़ब्ज़ा जमाये बैठे हैं और उनसे उन सम्पत्तियों को छुड़ाया नहीं जा सकता ?

डा० काटजू : में सवाल नहीं समझा ।

अध्यक्ष महोदय : ऐसी कुछ जायदादें हैं जहां पर नक़ली मालिक बैठे हैं और गवर्नमेंट उनको हटा नहीं सकती ?

डा० काटजू : हैदराबाद में ? मुझ मालूम नहीं ।

श्रीमती कमलेंदुमति शाह : निष्क्रांत सम्पत्तियों पर नक़ली मालिक बैठे हैं और गवर्नमेंट उनको वहां से हटा नहीं पाती ?

अध्यक्ष महोदय : उनको मालूम नहीं है ।

Shrimati Tarkeshwari Sinha: May I know when the Government proposes to finalise the financial integration?

Dr. Katju: There was a recent discussion between the Ministers and the final draft has been sent to Hyderabad for their acceptance, and as soon as it comes, it will be finalised.

The Minister of Finance (Shri C. D. Deshmukh): I may add that the Hyderabad Government have accepted the proposal and I received their letter yesterday, and so the information will be available inside a week's time.

STEEL PLANT—SOVIET AID

*891. **Shri T. K. Chaudhuri:** Will the Minister of **Finance** be pleased to refer to the reply given to starred question No. 245 on the 22nd November, 1954 and state whether the offer of the Soviet Union to build a steel plant for India made some time ago had been routed through the U.N.?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): No, Sir, as the technical assistance involved will be only ancillary to the project, preliminary investigations in regard to which are in progress.

Shri T. K. Chaudhuri: May I know if the attention of the Government has been drawn to a recent speech by the Minister of Commerce and Industry before the Foreign Press Correspondents' Association in Delhi,—early last month—indicating that the aid with regard to the steel plant from the Soviet Union will be routed through the U.N.?

Shri B. R. Bhagat: I think there is some confusion lurking in the mind of the hon. Member. 'What the hon. Minister referred to was the technical assistance available from the quota provided by the Soviet Union, which will be routed through the U.N., not the steel plant.

Shri T. K. Chaudhuri: What about the steel plant?

Shri B. R. Bhagat: It was not with regard to the steel plant.

Shri T. K. Chaudhuri: May I know whether the negotiations that are going on are through the U.N. or direct on a Government to Government level?

Shri B. R. Bhagat: Direct between the India Government and the Soviet Union Government.

LABOUR SERVICE CAMPS

*893. **Shri Hem Raj:** Will the Minister of **Education** be pleased to lay a statement on the Table of the House showing :

(a) the number of Labour Service Camps organised upto the end of October, 1954, State-wise;

(b) the number of students who took part therein, State-wise;

(c) the work done by these students; and

(d) the expenditure incurred in this connection?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) to (d). A statement is laid on the Table of the House. [*See* Appendix IV, annexure No. 23.]

Shri Hem Raj: May I know the agencies through which the money is expended?

Dr. M. M. Das: These Camps are organised by universities, State Governments, philanthropic organisations, etc. and the money is spent through these organisations—universities, State Governments, philanthropic and welfare organisations.

Shri Hem Raj: May I know whether bills of the different Camps have not been paid so far?

Dr. M. M. Das: We have got no information.

Shri T. S. A. Chettiar: May I know whether the full cost of these Camps is being met by the Government of India or any part is to be met by the students or the universities?

Dr. M. M. Das: So far as my information goes, and I speak subject to correction everything is being met by the Government of India.

Shri Basappa: What is the duration of these Camps?

Dr. M. M. Das: Sometimes it is two weeks and sometimes it is four weeks.

Shri Achuthan: May I know whether all the colleges have co-operated in these Camps?

Dr. M. M. Das: These Camps are organised or sponsored sometimes by the State Governments, sometimes by the universities, and sometimes by welfare organisations; they write to us and we give them the money.

CAMPING GROUNDS

*894. **Pandit Munishwar Datt Upadhyay:** Will the Minister of **Defence** be pleased to refer to the reply given to starred question No. 1136 on the 20th September, 1954 and state:

(a) whether Government are aware that certain local institutions or organisations have encroached upon surplus military camping grounds which are for sale and have acquired some rights by pre-emption; and

(b) whether Government have taken steps to clearly demarcate such land on the spot so that their transfer may be facilitated?

The Minister of Defence Organisation (Shri Tyagi): (a) Yes, some encroachments have been brought to the notice of Government.

(b) Yes.

Pandit Munishwar Datt Upadhyay: May I know in how many cases such disputes have come to the notice of the Government regarding these camping grounds?

Shri Tyagi: I have not got the exact number, but. . .

Pandit Munishwar Datt Upadhyay: Is it large?

Shri Tyagi: I think it is in the vicinity of two dozen.

Pandit Munishwar Datt Upadhyay: Is there any concession or preference to be given to any institutions as public institutions in respect of giving camping grounds?

Shri Tyagi: As regards encroachment, no concession is going to be given to encroachers. As regards the disposal of these camping grounds, it has been decided that the first preference will be given to the Ministries of the Central Government. If they say 'No', then the choice will be given to the State Governments. After that, the choice will be given to local bodies and if even the local bodies do not need them, the case of co-operative societies will be considered.

Pandit Munishwar Datt Upadhyay: What is the total area of these camping grounds in the various States?

Shri Tyagi: It requires a lot of calculation and I have not got the figure in hand.

Pandit Munishwar Datt Upadhyay: What is the total area?

Shri Tyagi: I want notice.

सेना की फालतू भूमियों का उत्सर्जन

*८९६. **श्री भक्त दर्शन :** क्या रक्षा मंत्री २० सितम्बर, १९५४ को तारांकित प्रश्न संख्या ११३६ और २३ सितम्बर, १९५४ को अतारांकित प्रश्न संख्या ६६३ के विषय में दिये गये उत्तरों के सम्बन्ध में यह बताने की कृपा करेंगे कि उत्तर प्रदेश में सैनिक शिविरों के पास जो फालतू भूमि है, उसके कितने भाग को भारत सरकार के विभिन्न मन्त्रालय और राज्य सरकार अपने अधिकार में लेने का विचार करते हैं ?

The Minister of Defence Organisation (Shri Tyagi): Two lists of the surplus camping groups in U.P. in which the different Ministries of the Government of India and the State Government respectively have shown interest are placed on the Table of the House. [*See* Appendix IV, annexure No. 24.]

श्री भक्त दर्शन : माननीय मंत्री महोदय ने सदन के पटल पर जो सूचियां प्रस्तुत की हैं उनमें इस भाषा का प्रयोग किया गया है :– "and the state government respectively have shown interest" में इसका मतलब समझना चाहता हूं कि क्या यह कैंपिंग ग्राउन्ड्स अन्तिम रूप से उन्हें दे दिये गये हैं या वे केवल विचाराधीन हैं और वहां से हटाये भी जा सकते हैं ?

श्री त्यागी : यह कैंपिंग ग्राउण्ड्स किसी को नहीं दिये गये हैं इन को देने से पहले राज्य सरकारों से पूछा गया है कि यदि उनमें से किसी को आवश्यकता होगी तो वह कैंपिंग ग्राउन्ड्स पहले राज्य सरकारों को दी जायेंगी । इस सिलसिले में कुछ राज्य सरकारों ने अपनी अपनी ख्वाहिशें हमारे पास लिख कर भेज दी हैं कि कौन कौन सी कैंपिंग ग्राउन्ड्स उनके लाभ की है ।

श्री भक्त दर्शन : इस का मतलब यह है कि अभी इस सम्बन्ध में अन्तिम निर्णय नहीं किया गया है, मैं जान सकता हूं कि कितने समय के अन्दर राज्य सरकारें इस बारे में अन्तिम निर्णय कर लेंगी ?

श्री त्यागी : राज्य सरकारों को अपना निर्णय देने के लिये जो अवधि निर्धारित की गयी थी उसकी तारीख खत्म हो चुकी है फिर भी राज्य सरकारों का जवाब साफ़ साफ़ नहीं आया है, इसलिये इनसे फिर पूछ ताछ की जा रही है ?

श्री भक्त दर्शन : इस सम्बन्ध में जो प्रेस विज्ञप्ति प्रकाशित की गयी है उसमें बतलाया गया है कि सार्वजनिक संस्थाओं को ये कैंपिंग ग्राउण्ड्स "करेण्ट मार्केट रेट्स" पर दिये जायेंगे । मैं जानना चाहता हूं कि इस रेट को कौन निर्धारित करेगा, राज्य सरकार या केन्द्रीय सरकार ?

श्री त्यागी : इस रेट के निर्धारित करने के लिये सरकारी मुहकमा जो कि उस जिले में है, वहां से पूछताछ की जायेगी, आमतौर से जो बाजार भाव उन जमीनों का है उसका पता इससे चलता है कि आसपास की जमीनें इस दरमियान में किस भाव पर बिकी हैं ?

TODAS IN THE NILGIRI HILLS

*899. **Shri G. L. Chaudhary:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that Todas of the Nilgiri Hills are in the process of extinction; and

(b) what special measures have been taken to check the extinction of this tribe?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). At the 1951 Census the numerical strength of individual castes or tribes was not ascertained. Only the group totals of "Scheduled Castes", "Scheduled Tribes", and "Other Backward Classes" were struck. In the absence of population data for individual Tribes it is not possible to state which particular tribe is decreasing in number.

I may, however, point out to the House that from the figures of the census for the years 1911, 1921, 1931 and 1941, the number has not appreciably decreased.

U.P.S.C.

*900. **Shri K. C. Sodhia:** Will the Minister of **Home Affairs** be pleased to state the total amount paid by the U.P.S.C. as fees to examiners during 1953-54?

The Deputy Minister of Home Affairs) (Shri Datar): Rs. 1,27,695.

Shri K. C. Sodhia: May I know what was the total number of examinees?

Shri Datar: All these figures are not before us.

Shri K. C. Sodhia: May I know whether the list of examiners is revised periodically?

Shri Datar: I may point out to the hon. Member that the Union Public Service Commission considers all these detailed questions as of public interest and hence not fit for disclosure.

Shrimati Tarkeshwari Sinha: May I know whether Government has under contemplation the introduction of Hindi as a medium of examination for All-India Services and whether the views of the State Governments have been invited on this matter?

Shri Datar: That relates to another question which was passed over.

Mr. Speaker: The hon. Minister cannot say that.

Shri Datar: In that way it was passed over for an oral answer the questioner being absent when called?

Mr. Speaker: It can be answered now.

Shri Datar: That question is under consideration.

Shri Thimmaiah: May I know whether there is any difference in the rate of fees paid to different examiners—that is, the examiners for I.A.S.. I.P.S., and I.F.S. examinations?

Shri Datar: I am not in a position to disclose any information because I have none.

INTERNATIONAL MONETARY FUND REPORT

***902. Shri N. B. Chowdhury**: Will the Minister of **Finance** be pleased to state:

(a) whether the attention of Government has been drawn to the remark in the International Monetary Fund Mission's Report that the accounts of Government are not kept in a form which makes it easy to separate investment expenditure from non-investment expenditure; and

(b) if so, what action Government propose to take in the matter?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir.

(b) The matter is under consideration.

I would like to add that the question of modifying the form of the budget so as to readily bring out the development expenditure from other expenditure has already been taken up. This is likely to take some time to finalise because it involves drastic modifications in the accounting structure and consultation with the Comptroller and Auditor-General and possibly the State Governments as well. I hope it will be possible to introduce the changes so as to synchronise with the next Five Year Plan period. Anything done earlier would completely upset statistical continuity.

Shri N. B. Chowdhury: May I know whether Government have taken any steps to find out what amount of developmental expenditure, which is in fact non-investment expenditure, has been included in the investment expenditure incurred during the first three years of the Five Year Plan period?

Shri C. D. Deshmukh: No non-development expenditure is included in development expenditure.

Mr. Speaker: As I have understood it, he means the expenditure which is not incurred and yet is included.

Shri C. D. Deshmukh: Expenditure not incurred and yet included?

Shri N. B. Chowdhury: No, Sir. What I meant is, development expenditure such as expenditure on education, health, etc., has been shown as investment expenditure, but according to the Fund's report, it should be shown as non-investment expenditure.

Shri C. D. Deshmukh: The question is not very clear to me. What has happened is, the expenditure that the States incur on education, health, etc. is not included in the Plan as development expenditure.

Shri N. B. Chowdhury: I am referring to page 30 of the Fund's report and there, this remark occurs. In this connection, they have dealt with the matter, and they have made it very clear that non-investment expenditure has been shown as investment expenditure under certain items of expenditure during the three years which have passed.

Shri C. D. Deshmukh: I shall have to refer to the page mentioned by the hon. Member and look into this matter.

गणतन्त्र दिवस

***९०३. डा० सत्यवादी :** क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या आगामी गणतन्त्र दिवस के समारोहों के कार्यक्रम अन्तिम रूप से तैयार कर लिये गये हैं ;

(ख) यदि हां, तो क्या सरकार ने लोक गीतों और नृत्यों के लिये राज्यों से मण्डलियों को आमन्त्रित किया है ; और

(ग) कौन-कौन से राज्य अपनी मण्डलियां भेजने को तैयार हो गये हैं ?

The Minister of Defence Organisation (Shri Tyagi): (a) A tentative programme has been drawn up.

(b) Yes, as in previous years for folk dances.

(c) Assam, Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, Uttar Pradesh, West Bengal, Hyderabad, Madhya Bharat, Mysore, PEPSU, Rajasthan, Saurashtra, Travancore-Cochin, Himachal Pradesh, Manipur, Vindhya Pradesh and Pondicherry.

डा० सत्यवादी : क्या सरकार ने इस साल के प्रोग्राम में पिछले साल के प्रोग्राम के मुक़ाबले में कुछ नवीनता लाने के लिये राज्य सरकारों को इस प्रकार का कोई सुझाव दिया है कि वह अपने राज्यों के भिन्न भिन्न हिस्सों की नुमाइन्दगी का ख़याल रक्खें ?

श्री त्यागी : जी हां, राज्य सरकारें स्वंय इस बात के लिये उत्सुक हैं कि उन के यहां के जो ट्रुप आयेंगे उन के अन्दर वह पहले के बनिस्बत कुछ नवीनता लायें ।

Th. Lakshman Singh Charak: May I know if the Jammu and Kashmir Government was also asked to send in its programme for the Republic Day celebrations?

Shri Tyagi: I think the invitation has been sent to *all* the State Governments. I do not know why the Kashmir Government should have been omitted from the names of States.

Shri K. K. Basu: How are the troupes and the artistes selected? Are the selections done by the Defence Ministry or are they being done independently by the State Governments and sent to the Government of India subsequently?

Shri Tyagi: They are selected by the State Governments.

SATYAGRAHA BY *Ex*-TODDY TAPPERS

***904. Shri C. R. Chowdary:** Will the Minister of **Home Affairs** be pleased to state the actual number of persons who were imprisoned in the Satyagraha Movement by *ex*-today tappers as well as those who had agitated for distribution of cultivable waste land at Government's disposal among the landless in Andhra State?

The Deputy Minister of Home Affairs (Shri Datar): The actual number of persons who were imprisoned in the Satyagraha Movement of *Ex*-Toddy Tappers is 2210 and of those who agitated for the distribution of *Banjar* Lands is 568.

Shri C. R. Chowdary: May I know how many of them have been released and how many of them are still in prison?

Shri Datar: I may point out to the hon. Member that all the persons have been released, and none is in jail now.

Shri C. R. Chowdary: Is it not a fact that a number of prisoners—*satyagrahis*—are still in jail?

Shri Datar: According to our information, they are not in jail.

Shri T. B. Vittal Rao: May I know if it is not a fact that 50 women *satyagrahis* are still in jail?

Shri Datar: I may point out to the hon. Member that 11 women prisoners were released in pursuance of the decision of the Cabinet there.

JOINT SERVICES WING

*905. **Shri Bogawat:** Will the Minister of **Defence** be pleased to state:

(a) whether Government are aware that examination in Mathematics in competitive examination of Joint Services Wing is conducted in English; and

(b) whether Government propose to permit candidates being examined in Mathematics in their regional languages?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Yes.

(b) This raises a general issue. Government are already considering this question. When general Government policy is laid down on this subject, it will also be followed in the case of the JSW examination.

Shri Bogawat: May I know from the Government, now that mathematics is taught in regional languages whether many candidates have failed and it is quite necessary to have the examination either in Hindi or in the regional languages?

Shri Satish Chandra: As I said, the matter is being examined from this point of view by the Ministry of Home Affairs. Whatever general policy is decided upon will also be applicable in this case. There is some difference here: instead of the University students, the matric students generally compete for this examination. I think the Home Ministry will take that aspect into account when coming to a decision.

Shri Bogawat: May I know whether the percentage of failures in mathematics is much more than can be expected due to the reason that I have just now mentioned?

Shri Satish Chandra: I have not got the figures of failures in mathematics and other subjects.

Shri Basappa: May I know how many candidates sit for this examination, and what will be the additional cost if regional languages are introduced?

Shri Satish Chandra: It is not a question of cost. This is an admission examination. If regional languages are introduced as the medium of the admission examination, other difficulties such as the uniform marking of the answer books etc., will arise.

AHMEDNAGAR FORT

*906. **Shri N. M. Lingam:** Will the Minister of **Education** be pleased to state:

(a) whether the Ahmednagar Fort where the members of the Congress Working Committee were detained during the 'Quit India' Movement of 1942 is treated as a protected monument;

(b) whether suggestions have been received that the rooms in which the leaders lived should be kept as they were; and

(c) if so, Government's decision thereon?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No, Sir.

(b) Although there is no such proposal before the Government of India, there is probably a proposal before the State Government to mark the rooms where the members of the Congress Working Committee were kept with tablets inscribed with their names etc.

(c) Does not arise.

Shri N. M. Lingam: Why is it that that the Ahmednagar Fort has not been brought under the Ancient Monuments Act?

Dr. M. M. Das: This fort has not been declared as a monument of national importance.

Shri N. M. Lingam: May I know if it is proposed to bring this fort under the Ancient Monuments Act and whether the fort has undergone any structural changes since the leaders were detained in 1942?

دی منسٹر آف ایجوکیشن اینڈ نیچرل ریسورسز اینڈ سائنٹیفک ریسرچ (مولانا آزاد)

گورنمنٹ نے اس پائنٹ آف ویو سے اس معاملے کو نہیں دیکھا ہے - یہہ بات ہمیں معلوم ہوئی ہے کہ گورنمنٹ بمبئی ان تمام کمروں میں جن میں کانگریس ورکنگ کمیٹی کے ممبر قید رکھے گئے تھے تختیاں لگا رہی ہے - اس سے زیادہ کارروائی کی ضرورت نہیں ہے -

[**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad)**: Government have not considered it from this point of view. We have come to know that the Government of Bombay are putting up plaques in the rooms where members of the Congress Working Committee were detained. No further action is necessary.]

श्री विभूति मिश्र : क्या स्वतन्त्रता के संग्राम में जो सिपाही लड़े हैं और जेलों में रहे हैं उन के बारे में भी कुछ किया जा रहा है ?

प्राइवेट विद्यार्थी

*९०७. **श्री रनबमन सिंह** : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) देश में ऐसे विश्वविद्यालयों की संख्या कितनी है, जो अपने द्वारा संचालित परीक्षाओं में प्राइवेट अभ्यर्थियों को बैठने की अनुमति देते हैं ;

(ख) कुछ विश्वविद्यालय प्राइवेट अभ्यर्थियों को परीक्षाओं में बैठने की अनुमति क्यों नहीं देते हैं ; और

(ग) क्या उच्चतर शिक्षा के लिये लोगों की बढ़ती हुई इच्छा को ध्यान में रखते हुये, सरकार किसी ऐसे उपाय के विषय में सोच रही है जिसके फलस्वरूप प्राइवेट अभ्यर्थी सभी विश्वविद्यालयों द्वारा संचालित परीक्षाओं में बैठ सकें ।

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Twenty-four Universities in the country admit certain categories of private candidates to appear in University examinations on certain conditions.

(b) This is a matter which concerns the Universities themselves which are autonomous bodies. Presumably they consider such concession undesirable as it might result in the lowering of standards.

(c) No.

श्री रनबमन सिंह : हिन्दी में बताने की भी कृपा करें ।

Mr. Speaker: Will Maulana Azad Saheb help him?

रक्षा संगठन मंत्री (श्री त्यागी) : नहीं, नहीं ।

डा० राम सुभग सिंह : क्यों नहीं ?

شکشا و پراکرتک سنسادھن تتھا ویگیانک گویشنا منتری (مولانا آزاد) :

(اے) ۲۴ یونیورسٹیاں ایسی ہیں کہ جو پرائیویٹ کنڈیڈیٹس کو امتحان دینے کا موقع دیتی ہیں -

(بی اور سی) یہ ایک ایسا معاملہ ہے جسکا تعلق یونیورسٹیوں سے ہے - اس لئے اس بارے میں سنٹرل گورنمنٹ کچھ نہیں کر سکتی -

श्री रनबमन सिंह : इस वक्त भारत में कुल कितने ऐसे विश्वविद्यालय हैं ?

مولانا آزاد : ۳۱ -

Maulana Azad: 31.

Shri K. K. Basu: May I know whether the Central Government or the Central Board of Education is advising the different Universities to follow a uniform policy regarding allowing private students to appear in the examinations?

مولانا آزاد : اس پر غور کیا جائےگا -

Maulana Azad: This will be considered.

TRADE AND CURRENCY

*908. **Shri L. N. Mishra**: Will the Minister of Finance be pleased to state:

(a) the concrete results achieved due to the initiative taken by the Commonwealth Countries in 1952 in proposing a world wide movement towards freer trade and currencies; and

(b) whether it is a fact that some of the members of the Commonwealth did not co-operate fully in the task?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) The results achieved are in the direction of the establishment of some of the pre-conditions for a system of freer trade and payments. There has been a general reduction in inflationary pressures and a considerable improvement in the foreign exchange position of countries in the sterling area. As a result, certain restrictions on use of sterling for payments abroad have been relaxed.

(b) I am not aware of any such instance.

Shri L. N. Mishra: I want to know the reasons why in spite of all these efforts of Commonwealth countries, some countries especially the exporters of industrial raw materials have suffered adversely in recent months?

Shri B. R. Bhagat: There has been general improvement. But, as the hon. Member says, the export prices particularly of cotton and oil seeds have gone down and in the result, this has created troubles for the exporting countries.

Shri L. N. Mishra: I want to know whether the Government of India have placed before the Commonwealth countries any definite programme to achieve the goal of convertibility and maintain convertibility for a longer period?

Shri B. R. Bhagat: That is precisely the objective of the Commonwealth Conference. This question has been discussed in each of the meetings. Although there has been limited convertibility achieved, as the hon. Member says, the final objective is convertibility over a long term basis and we are going in that direction.

Shri L. N. Mishra: May I know whether the attention of the Government has been drawn to a statement of Mr. Black, the President of the World Bank, against the use of credit? I want to know whether any stringent policy as regards credit will affect our position towards convertibility.

Shri B. R. Bhagat: Use of which credit? I could not catch the import of the question.

The Minister of Finance (Shri C. D. Deshmukh): I think the hon. Member refers to the export credit arrangement. The President of the International Bank drew attention to the facility with which there was a tendency to extend facile export credit. He thought that the availability of cheap credit in this way would come in the way of the operations in the Bank on proper business considerations.

FOREIGN EXPERTS

***910. Mulla Abdullabhai:** Will the Minister of Finance be pleased to state:

(a) the number of foreign technicians working at present in the various projects in India; and

(b) the number of those who returned to their countries during 1953 after giving their advice?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) The number of foreign technicians working at present in various projects in India, whose services were procured under programmes dealt with in this Ministry, is:—

1. United Nations Technical Assistance Administration.	10
2. Point Four Programme...	64
3. Colombo Plan	27

(b)—

1. United Nations Technical Assistance Administration	15
2. Point Four Programme ...	12
3. Colombo Plan ...	24

Mulla Abdullabhai: May I know the name of the country from which the maximum number of technicians have come to India?

Shri B. R. Bhagat: The U.S.A. and the U.K. provide the maximum number of technicians.

Mulla Abdullabhai: May I know the number of those who returned to their respective countries in the current year, till October 1954?

Shri B. R. Bhagat: The figure here is for 1953. That has been given in the answer.

Mr. Speaker: He wants the figure, further up to October, 1954.

Shri B. R. Bhagat: I should like to have separate notice.

Shri K. K. Basu: May I know whether the Government of the country has any say in determining the efficiency of the experts before they are appointed in our country, or the organisations themselves select them?

Shri B. R. Bhagat: We accept the selection made by the organisations. But we keep this point in view also.

Shri N. M. Lingam: May I know if any of the experts were sent away at the instance of the Government of India on the ground of inefficiency or otherwise?

Shri B. R. Bhagat: Not that I am aware of.

FOREIGN MISSIONARIES

***914. Shri D. C. Sharma:** Will the Minister of **Home Affairs** be pleased to state:

(a) the total number of foreign missionaries working in India at present nationality-wise; and

(b) the number of those against whom reports have been received in regard to their anti-Indian activities?

The Deputy Minister of Home Affairs (Shri Datar): (a) A statement giving the required information is laid on the Table of the House [*See* Appendix IV, annexure 25.]

(b) The attention of the Hon'ble Member is invited to the reply given to Starred Question No. 396 on the 2nd September, 1954.

Shri D. C. Sharma: May I know how it is that barring the Commonwealth countries, there are 6687 missionaries working in India? May I know how this number compares with the number of missionaries working in British India and in India today?

Shri Datar: The figure given in this statement relates to non-Commonwealth countries.

Shri D. C. Sharma: May I know the number of Chinese Missionaries?

Shri Datar: 34.

Shri D. C. Sharma: May I know what they are doing here?

Shri Datar: I may not point out what these individual missionaries are doing. I may inform the House that they are either teachers, doctors, dentists, nurses, technicians or administrative personnel, social workers, evangelists, etc.

Shri D. C. Sharma: May I know if dentists and administrators also come in the category of missionaries?

Shri Datar: The number of dentists is very small, only ten.

Shri D. C. Sharma: The hon. Minister said....

Mr. Speaker: He is going on arguing. Perhaps, there may be a mission hospital. If there is a mission hospital, we can imagine a doctor being a missionary and yet a dental surgeon.

CENTRAL STATISTICAL ORGANISATION

***915. Th. Lakshman Singh Charak:** Will the Minister of **Finance** be pleased to state:

(a) the names of the States who have joined the Central Statistical Organisation set up by Government.

(b) the number of persons who were imparted training in the Senior State Statisticians Course; and

(c) whether the Central Statistical Organisation has brought any uniformity between the Central and State Governments in their working ?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) It is presumed that the Hon'ble Member is referring to the In-Service Training for the State Statisticians being conducted by the Central Statistical Organisation with effect from 1st November, 1954. The States of Andhra, Bihar, Bhopal, Delhi, Kutch, Madhya Bharat, Madhya Pradesh, Punjab and Rajasthan have deputed their Statisticians for this training.

(b) The number of State Statisticians undergoing this training is 17.

(c) Yes, Sir. The Central Statistical Organisation has been making continuous attempts to secure uniformity in the matter. This is achieved through implementation of the recommendations in this regard arrived at during the annual Joint Conference of Central and State Statisticians.

Th. Lakshman Singh Charak: Do the States which have not sent their officers for training have trained staff already, or are they just carrying on the work without any training?

Shri B. R. Bhagat: I cannot say that off-hand, but most of the States now, with of course the exception of Travancore-Cochin, have set up their own statistical bureaus, and I presume those who have not sent their statisticians for training might be having their own trained personnel.

Th. Lakshman Singh Charak: Will it not be desirable to see that the whole work is put on a sounder basis and find out from the States if they have got their own arrangements, otherwise ask them to send their representatives for training here?

Shri B. R. Bhagat: Precisely that is what is being done at the annual Joint Conference of the Statisticians, the last of which met only recently, and the whole thing is done on a more scientific and co-ordinated basis.

MILITARY PENSIONS

***916. Shri Jhulan Sinha:** Will the Minister of Finance be pleased to state:

(a) the system followed in the payment of pensions to the Defence personnel retired in England; and

(b) whether there is any proposal to reverse or modify the original decision arrived at during 1947 for direct payment to the pensioned personnel and not through the Commonwealth Office of the U.K. Government?

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): (a) The payment of pensions to the Defence personnel retired in England is being done through the Commonwealth Relations Office of the Govt. of the United Kingdom.

(b) The arrangement for the payment by the Commonwealth Relations Office of pensions to British Officers and Other Ranks of the Indian Armed Forces who have retired in England was originally intended to continue upto the 31st March 1951. In 1951, it was proposed that this work should be taken over by the High Commissioner for India in London. Alternative arrangements have since been in discussion with the U.K. Government and the proposal to transfer the work to the High Commissioner has been held in abeyance.

Shri Jhulan Sinha: May I know if the Government has examined if the payment to those retired personnel directly by the Indian Government through their High Commissioner will lighten the burden on the Indian coffers?

Shri M. C. Shah: That was examined, but now there is an alternative proposal being discussed with the United Kingdom Government, and when that arrangement goes through, it will be in the interests of the Government of India and the country.

OPTICAL GLASS PLANT

*917. **Shri Tushar Chatterjea:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether a pilot plant for the manufacture of optical glass is to be set up by Government;

(b) whether any foreign aid is being invoked for this purpose;

(c) the items of the raw materials required for working the plant; and

(d) which of them will be available from indigenous sources?

The Minister in the Ministry of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) to (d). A statement giving the required information is laid on the Table of the House. [*See* Appendix IV, annexure No. 26.]

Shri Tushar Chatterjea: In part (b) of the statement it is stated that a part of the equipment will be imported from abroad. May I know the estimated amount that will be required for that purpose?

Shri K. D. Malaviya: The total cost involved in the proposal is Rs. 2,17,000 including construction of the building and purchase of the equipment, but the entire proposal is still before the Planning Commission and will wait for the Government's final decision.

Shri N. B. Chowdhury: May I know whether Government propose to treat this project as part of the Indian Glass and Ceramic Institute or as a different administrative unit?

Shri K. D. Malaviya: The administrative unit under which this pilot project will function is the Council of Scientific and Industrial Research, and the Ceramic Institute is one of the units of the Council of Scientific and Industrial Research.

Shri Ramachandra Reddi: May I know whether the raw material required for optical glass manufacture is available in India or it has to be imported from England?

Shri K. D. Malaviya: Most of it, as I have indicated, is available in India.

Shri Tushar Chatterjea: In the statement it is stated that the services of one or two experts from the National Bureau of Standards may be obtained.

May I know from which country these experts are to come?

Shri K. D. Malaviya: For that question I will require notice. It has not yet been decided perhaps.

SCHOLARSHIPS OF THE BURMAH SHELL OIL COMPANY

*918. **Shri V. P. Nayar:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state whether the candidates for scholarships offered by Messrs. Burmah Shell Oil Company for higher studies in engineering abroad are selected by any authority or officer under the Ministry?

The Minister in the Ministry of Natural Resources and Scientific Research (Shri K. D. Malaviya): A statement giving the required information is laid on the Table of the House. [*See* Appendix IV, annexure No. 27.]

Shri V. P. Nayar: Could I know how many students are selected every year under this scholarship from Burmah-Shell Oil Company, and could I also know the annual scholarship per student?

Shri K, D. Malaviya: The Burmah-Shell provides for two scholarships tenable for four years and three scholarships ordinarily tenable for two years. The student receives a stipend of £382 or 1,500 dollars in Canada per annum payable in monthly instalments, plus certain allowances to cover the cost of books, essential apparatus etc.

Shri V. P. Nayar: I presume that students selected are engineers. May I know whether Government have included any engineer in the Selection body because out of the seven representatives nobody seems to be an engineer at all? May I know whether any arrangements have been made to test the efficiency of the appearing candidates from the engineering side?

Shri K. D. Malaviya: Yes, Sir. All arrangements have been made to test the efficiency of the candidates who are selected.

Shri V. P. Nayar: May I know whether it is a fact that for some years past only students from the Banaras University have been selected, and if so, the reasons for that?

Shri K. D. Malaviya: No., Sir, it is not like that. The Universities from where students have been selected from 1952 are: Allahabad, Madras, Roorkie, Lucknow, Calcutta and Madras—Madras twice.

FOREIGN TRAINING OF I.A.F. PILOTS

***919. Shri Bhagwat Jha Azad:** Will the Minister of **Defence** be pleased to state:

(a) whether any Indian Air Force pilots have been sent abroad to take training in flying of Jet Planes;

(b) if so, their number; and

(c) the names of the countries where they were given the privilege to fly Jet Planes and with what result?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Yes.

(b) Six.

(c) France. The pilots successfully completed their training.

Shri Bhagwat Jha Azad: Were these pilots also sent to the United Kingdom for such flying, and did they compete there as well?

Shri Satish Chandra: These pilots were sent last year when Ouragon aircraft were purchased to get the training in France. This was in 1953. The hon. Member perhaps has in mind the recent reports about the crashing of the sound barrier in France.

Shri Bhagwat Jha Azad: What is in my mind is not to be anticipated. I want to know whether those pilots were sent to the United Kingdom, or do Government propose to send further batches, or have they sent, to these countries for such flying?

Shri Satish Chandra: The question relates to training in flying of jet planes. The team which is in Europe at present has not been sent for receiving any training. They have gone there to see the latest developments in aircrafts manufactured recently and to submit their report to the Government.

JANTAR MANTAR (NEW DELHI)

***920. Shri Radha Raman:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that the Rajasthan Government have decided to construct a building in the compound of Jantar Mantar in New Delhi; and

(b) whether the decision has been taken after consultation with the Government of India?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) The Government of India understand that the Rajasthan Government have certain proposals under consideration.

(b) No, Sir.

Shri Radha Raman: If such a proposal as is placed in the question is received by the Government, what will be the attitude of the Government of India to that?

Dr. M. M. Das: Recently, the Rajasthan Government suggested certain portions within the compound of Jantar Mantar should be excluded and only the balance taken over by the Central Government. The Rajasthan Government has been informed that not all the portions they have said but certain portions can be handed over.

Shri Radha Raman: May I know if the Government is aware that some construction adjoining Jantar Mantar is already owned by the Rajasthan Government and there is an entry to that and it affects the look of the park?

Dr. M. M. Das: So far as I gather from the question that construction is not within the boundary of Jantar Mantar. It may be adjacent, but the Government is not concerned with adjacent areas.

WRITTEN ANSWERS TO QUESTIONS

INDIAN PHARMACEUTICAL INDUSTRY

***870. Shri V. P. Nayar:** Will the Minister of **Finance** be pleased to state:

(a) whether Government have any information regarding the amount paid from the 1st January, 1950 to the 1st June, 1954 by Indian Pharmaceutical Industry as royalty to foreign concerns; and

(b) if so, what is the total amount so paid?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). Government have no information as the Reserve Bank who alone keep statistics of remittances abroad have not maintained statistics of royalty remittances industry-wise.

PUBLIC SERVICE COMMISSION EXAMINATIONS

***872. Shri D. C. Sharma:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to starred question No. 239 on the 20th August 1954, and state:

(a) whether any decision has since been taken by Government regarding the holding of Union Public Service Commission Examinations in Hindi and regional languages besides English; and

(b) if so, the nature of the decision taken?

The Deputy Minister of Home Affairs (Shri Datar): (a) The matter is still under consideration and no decision has yet been taken.

(b) Does not arise.

DUES FROM CHINA

***873. Shri Nageshwar Prasad Sinha:** Will the Minister of **Finance** be pleased to state:

(a) whether the Government of the People's Republic of China have considered India's request for repayment of the amount spent by India on behalf of China during the war and post-war periods, the claim of which had been admitted by the former Chinese Nationalist Government; and

(b) if so, what is the total amount involved and whether it has since been received by the Government of India?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). The matter is still under the consideration of the Government of the People's Republic of China and a final reply has not yet been received from that Government. The total amount involved is Rs. 10,80,103-0-3.

SMUGGLING OF BETEL-NUTS

***875. Pandit D. N. Tiwary:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that smuggling in betel-nuts has considerably increased; and

(b) if so, the steps taken to check it?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): (a) The information available with the Government indicates that smuggling in betelnuts by land from East Pakistan has increased to some extent during the past few months.

(b) The usual measures to check smuggling have all been put into force with vigour, e.g.—

(i) The appointment of Customs Preventive Officers on the land frontiers with jeeps, vans and launches.

(ii) A 'Central Intelligence Bureau' has been set up by posting of Intelligence staff at important centres.

(iii) Cooperation of the Special Armed Police and other State Government officers to assist the customs preventive and mobile parties on certain land frontiers.

CENTRAL STATISTICAL ORGANISATION

***877. Th. Lakshman Singh Charak:** Will the Minister of **Finance** be pleased to state whether the recommendations of the Central Statistical Organisation have been accepted and implemented both by the Central and the State Governments?

The Minister of Finance (Shri C. D. Deshmukh): The hon. Member is presumably referring to the recommendations made by the First and the Second Joint Conferences of the Central and State Statisticians. A statement showing the main recommendations requiring implementation by Central Ministries and State Governments and the progress made in implementing them is laid on the Table of the House. [*See* Appendix IV, annexure No. 28.]

PETROLEUM IN RAJASTHAN

***880. Shri Karni Singhji:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state whether Government propose to carry out a geological survey of the areas of Bikaner Division in Rajasthan which have not so far been explored with a view to discovering the possibilities of extracting petroleum there?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Yes, Sir.

NATIONAL MUSEUM BUILDING

***883. Shri Bahadur Singh:** Will the Minister of **Education** be pleased to state:

a) whether the construction work of the building for the National Museum has been taken in hand; and

(b) what amount is likely to be spent on it during the current financial year?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) No Sir.

(b) Nil.

HARNESS AND SADDLERY FACTORY, KANPUR

***887. Shri H. N. Mukerjee:** Will the Minister of **Defence** be pleased to state:

(a) whether there has been any proposal for the installation of a Boot Plant in the Harness and Saddlery Factory, Kanpur; and

(b) if so, the progress made so far in the matter?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Yes.

(b) Full details of machines required to establish this manufacture have been obtained from foreign suppliers and the matter is being studied further by the Director General, Ordnance Factories.

CONFERENCE OF HOME MINISTERS

***889. { Shri Bheekha Bhai:**
Shri Madhao Reddi:

Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that a conference of State Home Ministers has been convened by the Government of India in New Delhi; and

(b) if so, the main items of the agenda to be discussed in the conference?

The Minister of Home Affairs and States (Dr. Katju): (a) Yes.

(b) To consider the problems relating to the Indian Police, their methods of investigation etc.

मध्य भारत में सेना की भूमि

***८९२. श्री राधे लाल व्यास:** क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि:

(क) उज्जैन (मध्य भारत) में रक्षा विभाग को मध्य भारत के भूतपूर्व रक्षा

विभाग से जो बीड़ भूमि प्राप्त हुई है, उसका क्षेत्रफल कितना है ;

(ख) इस भूमि का किस प्रकार से उपयोग किया जा रहा है ; और

(ग) उससे रक्षा विभाग को कितनी आय होती है, और उसकी देखभाल पर उसे कितना व्यय करना पड़ता है ?

The Minister of Defence Organisation (Shri Tyagi): (a) 3514 Bighas 12 Biswas.

(b) These lands were leased by public auction with the intention of getting supply of fodder to the army.

(c) The income from this land during the last two and the current financial years is as follows:—

1952-53—Rs. 14,161-0-0
1953-54—Rs. 7,200-0-0
1954-55—Rs. 6,080-0-0

No expenditure has been incurred on its maintenance.

GRANT FOR DRINKING WATER IN BIHAR

***895. Th. Jugal Kishore Sinha:** Will the Minister of **Finance** be pleased to state:

(a) whether any representation has been received from the Bihar Government for a grant for the supply of drinking water in flood-affected areas of Bihar; and

(b) if so, the action taken thereon?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir.

(b) The Government of India have agreed to include the expenditure on sinking 4000 tube-wells fitted with hand pumps in the flood-affected areas of Bihar as an item of gratuitous relief towards the *total* cost of which the Centre will give a grant of 50 per cent up to the first Rs. 2 crores and 75 per cent in respect of the amount in excess thereof.

MODE OF SALUTING IN ARMY

***897. Dr. Ram Subhag Singh:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that some medical experts have given advice against the stamping of foot by the Army personnel while saluting;

(b) if so, whether that advice has been examined by Government; and

(c) if the answer to part (b) above be in the affirmative, whether Government propose to stop this practice?

The Minister of Defence Organisation (Shri Tyagi): (a) No, Sir.

(b) and (c). Do not arise.

I. A. S. EXAMINATION, 1953

***898. Shri Ganpati Ram:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of candidates selected for appointment on the results of the I.A.S. Examination held in the year 1953 and the number on the waiting list; and

(b) the steps taken by Government to see that the quota reserved for the Scheduled Castes and Scheduled Tribes is fully represented?

The Minister of Home Affairs and States (Dr. Katju): (a) 42 were selected on the results of this examination of whom 41 have so far been appointed to the Indian Administrative Service. In respect of one candidate, the question of medical fitness is still under consideration. There is no waiting list for these appointments.

(b) Attention is invited to Rules 7(4) and 7(5) of the Indian Administrative Service (Recruitment) Rules, 1954, promulgated on the 8th September 1954 and laid before the House. Under these Rules, Scheduled Caste and Scheduled Tribes candidates who are considered by the Union Public Service Commission to be suitable for appointment to the Service with due regard to the maintenance of efficiency of administration, have been made eligible for appointment to the vacancies reserved for such candidates, irrespective of the rank obtained by them in the competitive examination. It has also been provided that if a sufficient number of candidates belonging to these communities are not available for filling all the vacancies reserved for them on the results of a particular examination, the balance will be carried over and added to the reserved quota of vacancies for the next examination.

INDUSTRIAL MANAGEMENT SERVICE ETC.

*901. **Shri M. L. Agrawal:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to starred question No. 134 on the 25th August, 1954 and state:

(a) whether the schemes for establishing the 'Statistical and Economic Advisory Service' and 'Industrial Management Service' have since been finalised; and

(b) if so, the details of the schemes?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The schemes have not yet been finalised. The matters are still under consideration.

ALL-INDIA COUNCIL OF SPORTS

*909. **Dr. J. N. Parekh:** Will the Minister of **Education** be pleased to state:

(a) whether an All-India Council of Sports has been formed by Government; and

(b) if so, the composition and functions thereof?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) A copy of the Resolution is placed on the Table of the House. [*See* Appendix IV, annexure No. 29.]

STENOGRAPHERS' TEST

*911. **Sardar A. S. Saigal:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that Stenographers' test conducted by the U.P.S.C. could not be held on the 23rd and 24th November, 1954;

(b) whether it is a fact that another examination will be held in the near future; and

(c) if so, how it will affect those who have already taken the examination?

The Deputy Minister of Home Affairs (Shri Datar): (a) It has been ascertained from the Union Public Service Commission that the Stenographers' test was held by the Commission according to the schedule previously, announced.

(b) and (c). Do not arise.

सैनिकों की पेंशनें

*९१२. **श्री एम० एल द्विवेदी** : क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) सेना के अनियमित अधिकारियों को पेंशन की सुविधायें देने के प्रश्न के सम्बन्ध में सरकार ने क्या निर्णय किया है ;

(ख) इन अधिकारियों को ये सुविधायें कब से मिलने लगेंगी ; और

(ग) क्या वही निर्णय उन लोगों के सम्बन्ध में भी लागू किया जायेगा जो पहले सेवा से अवकाश प्राप्त कर चुके हैं ?

The Minister of Defence Organisation (Shri Tyagi): (a) to (c). The question of revising the existing terms for the grant of pension/gratuity to non-regular officers including Emergency Commissioned Officers, Temporary and Short Service Commissioned Officers, has been engaging the attention of the Government for some time past. Certain decisions in this respect have now been reached, and orders are likely to be issued shortly. The liberalized pension/gratuity terms for non-regular officers will apply to those who are released, invalided or died while on the active list, on or after the 1st June 1953, and who fulfil the prescribed conditions.

CENTRAL ADVISORY BOARD OF EDUCATION

***913. Shri Krishnacharya Joshi:** Will the Minister of **Education** be pleased to state:

(a) what are the main recommendations of the Central Advisory Board of Education in India made to State Governments as adopted in the 20th and 21st Meetings of the Board; and

(b) how many States have implemented the same?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Two statements are laid on the Table of the House. [*See* Appendix IV, annexure No. 30.]

(b) The information is not yet complete. It is being collected from the various State Governments to be placed before the Board's next meeting in January, 1955.

Ex-SERVICEMEN'S POST WAR RECONSTRUCTION FUND

***921. Kumari Annie Mascarene:** Will the Minister of **Defence** be pleased to state how the *ex*-Servicemen's Post War Reconstruction Fund set apart for Travancore-Cochin State was spent?

The Minister of Defence Organisation (Shri Tyagi): The fund was used to provide stipends/scholarships for education, technical and vocational training of *ex*-servicemen, medical aid to the T.B. Hospital meant for *ex*-servicemen, donations to St. Dunstan's After Care Organisation, Dehra Dun, loans to various *ex*-servicemen's Co-operative Societies, and establishment charges for the administration of the Fund.

GRANTS TO RAJASTHAN

***922. Shri Bheekha Bhai:** Will the Minister of **Home Affairs** be pleased to state:

(a) the amount of grant-in-aid under Article 275 of the Constitution asked by the Government of Rajasthan from the Government of India during 1954-55; and

(b) the amount actually sanctioned?

The Deputy Minister of Home Affairs (Shri Datar): (a) Rs. 13 lakhs.

(b) Rs. 12·75 lakhs.

FOREIGN EXCHANGE

***923. Shrimati Tarkeshwari Sinha:** Will the Minister of **Finance** be pleased to state:

(a) whether negotiations for establishing a mutual exchange rate between India and the Democratic Republic of Viet-Nam have been completed;

(b) if so, the ratio so fixed;

(c) how it compares with the rate of exchange previously in circulation;

(d) whether by the exchange rate the value of Indian currency has been reduced; and

(e) if so, by how much?

The Minister of Finance (Shri C. D. Deshmukh): (a) No such negotiations have taken place between us and the Democratic Republic of Viet-Nam.

(b) to (e). Do not arise.

NEPAL CURRENCY

***924. Shri G. L. Chaudhary:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the Government of Nepal has devalued its currency; and

(b) if so, what is its effect on the monetary position of India?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). The currency of Nepal has never had a fixed par value and therefore the question of devaluation does not arise. It has been reported however, that the Government of Nepal have given up since the 14th October, 1954 their previous efforts to "control" the exchange rate between the Nepalese rupee and the India Rupee at Rs. 150 Nepalese equal to Rs. 100 Indian and since then the rate of exchange in the market has been in the neighbourhood of Rs. 180 Nepalese to Rs. 100 Indian. There have always been fluctuations in the rate of exchange between Nepal and India, and while such fluctuations are bound to have some effect on the trade between the two countries, they cannot have any effect on India's monetary position as such.

OBJECTIVE REVIEW

*925. { **Shri K. C. Sodhia:**
Pandit D. N. Tiwary:

Will the Minister of **Finance** be pleased to refer to the reply given to starred question No. 1440 on the 28th September, 1954 and lay a statement on the Table of the House showing:

(a) the specific recommendations made by the team of officers appointed for the objective review of the organisation and staff requirements of the various Ministries which have been accepted by Government, or under actual implementation and or under active consideration, as stated on page 10 of their Annual Report; and

(b) the financial implications of these recommendations and their effect on the present strength of staff in each Ministry?

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): (a) and (b). The money value of the recommendations of the special team of officers, appointed to conduct an objective review of the organisations and staff requirements of the various Ministries, so far accepted by them amounts to about Rs. 54 lakhs per annum. Information relating to the details of the recommendations under actual implementation or under active consideration and their effect on the strength of the Ministries etc. is being collected from the various Ministries concerned and will be placed on the Table of the House as soon as possible.

MERIT SCHOLARSHIPS

*926. **Shri N. B. Chowdhury:** Will the Minister of **Education** be pleased to state whether any examination has been held in connection with the Government of India Merit Scholarships for studies in Public Schools this year?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Yes, Sir.

UTILISATION OF WORLD BANK LOAN

*927. { **Shri L. N. Mishra:**
Shri Ibrahim:

Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that India has not even now availed of the loan granted by the World Bank for expansion of the productive capacity of the Indian Iron and Steel Company; and

(b) if so, the reason therefor?

The Minister of Finance (Shri C. D. Deshmukh): (a) No, Sir, the loan became effective from the 29th October, 1954 and is in the process of being used.

(b) Does not arise.

RIGHTS OF LINGUISTIC MINORITIES

*929. **Mulla Abdullabhai:** Will the Minister of **Education** be pleased to state:

(a) whether the Central Government have issued any directives to the States regarding the preservation of educational and cultural rights of linguistic minorities; and

(b) if so, whether Government have received any reports as to how far the States have implemented these directives?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). Attention is invited to the reply given to the Starred Question No. 274 by Shri B. C. Das on 23rd February, 1954 in the Lok Sabha.

AERONAUTICAL DEVELOPMENT

***930. Shri Krishnacharya Joshi:** Will the Minister of **Defence** be pleased to state:

(a) whether there is a scheme of aeronautical development and research for defence purpose under the consideration of Government; and

(b) if so, the decision taken in the matter?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Yes.

(b) A decision was taken to set up a Directorate of Technical Development (Air) and Production and it was brought into existence in a nucleus form in April 1954.

STATES REORGANISATION COMMISSION

***931. Shri D. C. Sharma:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether the States Reorganisation Commission have submitted any interim report so far; and

(b) if so, whether a copy of it will be laid on the Table of the House?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). I would invite the attention of the hon. Member to the reply given by me to Shri Krishnacharya Joshi's Starred Question No. 98 on the 25th August, 1954, to which I have nothing to add. I then stated that no such report was submitted nor is one called for.

भारत सरकार की टकसाल

***९३३. श्री एम० एल० द्विवेदी:** क्या **वित्त** मंत्री यह बताने की कृपा करेंगे कि :

(क) भारत सरकार की टकसाल के लिये बहुत अधिक अतिरिक्त सामान और भण्डार क्यों खरीदा गया है जबकि बहुत समय से ४ लाख रुपये का सामान बिना काम में आये हुये पड़ा है और जो कि आगामी कई वर्षों तक टकसाल की आवश्यकताओं की पूर्ति के लिये पर्याप्त है ;

(ख) इस फालतू सामान को काम में लाने के लिये यदि कोई कार्यवाही की जा रही है, तो वह क्या है ;

(ग) क्या सरकार को ऐसे अनावश्यक क्रयों का पता है ;

(घ) क्या ऐसे क्रयों को रोकने के लिये कोई आदेश दिये गये हैं ; और

(ङ) यदि हां, तो उन्हें कब लागू किया जायेगा ?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): (a) and (b). It is not clear what specific information is wanted. In order to ensure the smooth working of the three Government of India Mints it is essential that necessary stores should be collected in advance and the building up of such reserves is not an abnormal matter.

It is not clear which are the specific stores referred to as worth Rs. 4 lakhs. The total value of the stores in the three Mints and in the Silver Refinery very much exceeds Rs. 4 lakhs. Again, it is not clear what is indicated by 'equipment'. The machineries and plants installed in the four units run into crores. There has, however, been no recent purchase of any equipment for the Mints though specific equipment ordered by the Silver Refinery has now started being delivered.

(c) No case of unnecessary purchase has come to the notice of Government. All purchases of equipment are carefully scrutinised before formal sanction is given.

(d) and (e). Do not arise.

KUMBH MELA TRAGEDY

***934. Shrimati Tarkeshwari Sinha:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to starred question No. 584 asked on the 2nd March, 1954 regarding the Kumbh Mela Tragedy and state:

(a) whether the report of the committee appointed by the Government of Uttar Pradesh to enquire into the Kumbh Mela Tragedy has been received; and

(b) if so, whether Government will lay a copy of the report on the Table of the House?

The Deputy Minister of Home Affairs (Shri Datar): (a) Government of India have not so far received a copy of the Committee's report.

(b) Does not arise.

RE-EMPLOYMENT OF ALL-INDIA SERVICES OFFICERS

***935. Shri G. L. Chaudhary**: Will the Minister of **Home Affairs** be pleased to state:

(a) the names of the Indian Civil Service and Indian Administrative Service personnel who have been appointed since the 15th August, 1947 to managerial or other high posts in Government undertakings after their retirement; and

(b) the reason for their re-employment?

The Minister of Home Affairs and States (Dr. Katju): (a) The only such case is that of Shri P. S. Rao who after retirement from the Indian Civil Service was appointed as Chairman of the Damodar Valley Corporation.

(b) The officer was appointed to the post because he was considered to be the most suitable and available person for the appointment.

CENTRAL DRUG RESEARCH INSTITUTE LUCKNOW

***936. Dr. J. N. Parekh**: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the results of specific items of research at the Central Drug Research Institute, Lucknow; and

(b) the results of specific items of Research at the Ayurvedic Research Institute, Jamnagar?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) A statement giving the required information is laid on the Table of the House. [*See* Appendix IV, annexure No. 31.]

(b) The information is being collected and will be laid on the Table of the House, when received.

RESEARCH COMMITTEES

***937. Shri Tushar Chatterjea**: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of Research Committees which are functioning under the Council of Scientific and Industrial Research;

(b) for how long they are functioning;

(c) whether these Committees are of a permanent nature; and

(d) if so, whether the staff of these Committees have been granted permanency of service?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix IV, annexure No. 32.]

(c) No, Sir.

(d) Does not arise.

GEOPHYSICAL WORKSHOP

***119. Sardar Hukam Singh**: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any new types of electrical field instruments were manufactured during 1954 in the Geophysical Workshop; and

(b) the extent of repairs of instruments and equipment undertaken in this workshop?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix IV, annexure No. 33.]

SURVEY OF OIL DEPOSIT

628. Shri D. C. Sharma: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any prospecting has been made of the reported oil deposits in Himachal Pradesh; and

(b) if so, with what results?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the available information is attached. [*See* Appendix IV, annexure No. 34.]

LOAN TO PUNJAB

629. Shri Hem Raj: Will the Minister of **Finance** be pleased to state:

(a) the amount of aid, subsidy, grant or loans given to the Punjab Government for the purposes given below:

(i) Cottage Industries, (ii) Minor irrigation works, (iii) Roads, (iv) Construction of small dams, (v) Anti-Erosion measures in hills, (vi) Bridges, (vii) Specialised Training, (viii) Destruction of wild animals and birds (which damage crops), (ix) Health and Sanitation and (x) Education;

(b) whether any progress report has been called for from the State Government;

(c) the number of such schemes and the expenditure thereon which were designed for the development of the Kangra District;

(d) whether any new schemes have been submitted for the remaining part of the Plan period;

(e) if so, their names and their nature; and

(f) which of them relate specially to the Kangra District?

The Minister of Finance (Shri C. D. Deshmukh): (a) to (f). The information is being collected and will be laid on the Table of the House

भारत-अमरीकी करार के अधीन इंजन, डिब्बे आदि

६३०. श्री एम० एल० द्विवेदी : क्या वित्त मंत्री यह बताने की कृपा करेंगे कि:

(क) क्या भारत को १०० इंजनों और ५००० माल-डिब्बों को देने के लिये भारत-अमरीकी टेकनिकल सहयोग कार्यक्रम के अधीन अमरीका के साथ जो संविदा हुआ था, उसकी शर्तों में कोई परिवर्तन हुआ है;

(ख) यदि हां, तो वह परिवर्तन किस प्रकार का है;

(ग) क्या वैदेशिक सहायता कार्यक्रम के अधीन जापान, अमरीका और योरुप द्वारा दिये जाने वाले इंजनों और माल-डिब्बों की क़िस्म, दर, टिकाऊपन आदि के सम्बन्ध में कोई अन्तर नहीं होगा, और

(घ) इस प्रकार की सहायता के अन्तर्गत अभी तक भारत को कितने मूल्य का सामान मिल चुका है?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir.

(b) Originally the idea was that the locomotives and wagons would be bought from the cheapest qualified tenderers in the world market. After tenders were opened, the U. S. Government wished to place orders for 50 per cent of the locomotives and 40 per cent of the wagons on American suppliers, albeit at higher prices, and sought the concurrence of the Government of India. As the extra cost of placing such orders in the U.S.A. was to be borne by the U.S. Government from funds other than those earmarked for India, and as the supply of 100 locomotives and 5000 wagons to India according to Indian Railway standard specifications within the delivery date originally stipulated was not affected, the Government of India agreed to the proposal of the U.S. Government.

(c) The supply will be according to the specifications of the Indian Railways, irrespective of the source of supply. But, as pointed out earlier, the price of locomotives and wagons ordered from the U.S.A. will be higher than the European prices, which are themselves a little higher than the Japanese prices.

(d) The value of materials and equipment received so far under the Railway Rolling Stock Agreement is nil. It is expected that the delivery of locomotive and wagons under the Agreement will be completed by the 31st December, 1955.

AHMEDABAD TEXTILE INDUSTRY'S RESEARCH ASSOCIATION

631. **Sardar Hukam Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the main problems that were undertaken during 1954 so far by the Ahmedabad Textile Industry's Research Association laboratories for research and development in the textile industry;

(b) the assistance Ahmedabad Textile Industry's Research Association has offered to the industry during this period; and

(c) the extent of analytical testing undertaken for the textile mills?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (c). A statement giving the required information is attached. [*See* Appendix IV, annexure No. 35.]

FOREIGNERS ACT, 1939

632. **Shri Krishnacharya Joshi:** Will the Minister of **Home Affairs** be pleased to state:

(a) the total number of Tribal Pathans of Afganistan who have been granted exemption from registration under the Registration of Foreigners' Act, 1939; and

(b) the other facilities given to them?

The Minister of Home Affairs and States (Dr. Katju): (a) Nil.

(b) None.

CORRUPTION CASES AGAINST GOVERNMENT SERVANTS

633. **Shri D. C. Sharma:** Will the Minister of **Home Affairs** be pleased to state the total number of cases of corruption against Government officers which have been reported to the Special Police Establishment from the 1st July to the 31st October, 1954, (State-wise)?

The Minister of Home Affairs and States (Dr. Katju): The information is being collected and will be laid on the Table of the House in due course.

SMUGGLING ON WAGAH (PUNJAB) BORDER

634. **Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state:

(a) the measures that have been taken by Government to combat smuggling on the Wagah border;

(b) the number of smugglers convicted in 1952 and 1953;

(c) the number of Indians and Pakistanis amongst them;

(d) whether any of the convicts held passports of either countries; and

(e) if so, their number?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): (a) The measures that have been taken by the Government to combat smuggling across the Wagah-Attari sector of the Indo-Pakistan frontier are given in a separate Statement which is placed on the Table of the Sabha. [*See* Appendix IV, annexure No. 36.]

(b) and (c). The total number of smugglers who were convicted during 1952 and 1953 was 133 and 87 respectively and their nationalities were as under:

	Indians	Pakistanis
1952	116	17
1953	69	18

(d) and (e). None of the convicts held passports of either country.

FOREIGN BANKS

635. **Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state how many banks with mainly foreign capital and management have withdrawn their activities from India during the last three years?

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): The hon. Member presumably desires to know the number of banks which were incorporated outside India but have closed their business in India. According to the information available with the Government, four such banks have withdrawn their activities from India from January, 1951 to 31st October, 1954. A statement showing their names with dates of closure and brief particulars is laid on the Table of the Sabha. [*See* Appendix IV, annexure No. 37.]

NATIONAL PLAN LOAN CERTIFICATES

636. **Shri D. C. Sharma:**
Shri Ramachandra Reddi:

Will the Minister of **Finance** be pleased to state:

(a) the total amount raised up to the 16th September, 1954 on account of the National Plan Loan;

(b) the total amount raised so far on account of the National Plan Certificates; and

(c) the Plan in which the total amount so realized is to be spent?

The Minister of Finance (Shri C. D. Deshmukh): (a) Rs. 158·10 crores, roundly.

(b) Rs. 5·01 crores, roundly, upto the 20th November, 1954.

(c) It will be spent on the development schemes of the Central and the States.

INSTITUTE OF ARMAMENT STUDIES

637. **Shri Krishnacharya Joshi:** Will the Minister of **Defence** be pleased to state the total number of persons who have received training so far in the **study of armament at the Institute of** Armament Studies, Kirkee?

The Minister of Defence Organisation (Shri Tyagi): The Institute is at present running its first two courses. 10 officers are receiving training under the first Technical Staff Officers' Course which commenced in October, 1953 and 16 officers are receiving training under the second course, which commenced in October, 1954. Both the courses are of about 18 months' duration.

WELFARE EXTENSION PROJECTS

638. **Shri Dabhi:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that the Central Social Welfare Board has, in October, 1954, opened one hundred and twenty Welfare Extension Projects in various States;

(b) if so, the names of the places where these Projects have been opened;

(c) what is the scope of each project; and

(d) the nature of the services these Projects will render?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) No. The Central Social Welfare Board has opened only 62 Welfare Extension Projects in various States during October, 1954.

(b) and (c). The requisite information is given in the enclosed statement. [*See* Appendix IV, annexure No. 38.]

(d) The services to be rendered under the Welfare Extension Project Scheme are mainly in the field of Women and Children's Welfare.

REGIONAL LANGUAGES

639. Shri Krishnacharya Joshi: Will the Minister of **Home Affairs** be pleased to state:

(a) the States that have adopted the regional languages as an official language of the State; and

(b) what is the position in multilingual States?

The Deputy Minister of Home Affairs (Shri Datar): (a):

(1) Madhya Pradesh
(2) Bihar
(3) Orissa
(4) Uttar Pradesh
(5) Rajasthan
(6) Saurashtra
(7) Madhya Bharat
(8) Ajmer
(9) Kutch
(10) Vindhya Pradesh.

Both English and Hindi, which is the regional language, are used for official purposes. 75 per cent. of the administrative work is conducted in Hindi.

(b) (1) *Assam*—Has not adopted any of the regional languages as official language of the State. English is being used as the official language.

(2) *Bombay*—(i) Official language of the Government of Bombay for purposes of correspondence with the Government of India, other State Governments and between the State Government and at District levels is English;

(ii) Official language at the District level and below is the regional language of the District concerned, *viz.* Gujarati, Marathi, Hindi or Kannada. Certain Talukas/Mahals/Pethas of certain districts have been recognised as bi-lingual areas and two regional languages are in use for official purposes in those areas.

(3) *Madras*—Tamil, Malayalam and Kannada are the regional languages of the State. State Government have not adopted any regional languages as the official language of the State.

(4) *Punjab*—Has not adopted any regional language of official language of the State. Hindi and Punjabi are the regional languages.

(5) *P.E.P.S.U.*—Except in Civil Secretariat, work in all other Civil offices of the State is carried on in the regional language. State is divided into two zones, the Hindi-speaking area and the Punjabi-speaking area. Hindi (in Devnagri script) is the official language in the Hindi-speaking zone and Punjabi (in Gurmukhi script) is the official language in the Punjabi-speaking zone. Petitions in both the languages are, however, freely accepted in both the zones.

(6) *Hyderabad*—(i) Regional languages are Hindi, Urdu, Telugu, Marathi and Kannada;

(ii) Correspondence from and to the Secretariat and Heads of Departments; between District Officers and the Secretariat; and between different Secretariats of the State Government is conducted in English;

(iii) Correspondence between officers in the district is conducted in the language of the district; and

(iv) In the various Civil and Criminal Courts, Hindi, Urdu, Telugu, Marathi and Kannada have been adopted as the language(s) of the Courts.

There are 6 States, *viz.* Andhra, West Bengal, Bhopal, Coorg, Delhi and Tripura, which have not adopted either regional languages as an official language of the State nor are they multilingual States. Information from the remaining Six States, *viz.* Travancore-Cochin, Mysore, Jammu and Kashmir, Himachal Pradesh, Manipur and Andaman and Nicobar Islands is still awaited and will be laid on the Table of tht House in due course.

GRANT FOR HARIJAN STUDENTS IN MYSORE

640. Shri Keshavaiengar: Will the Minister of **Home Affairs** be pleased to state:

(a) whether any amount has been granted under the Eradication of Untouchability Scheme to Mysore Government or The ***Hari Jan Sewak Sangh,*** Mysore for secondary education of Harijan students in the State;

(b) if so, the amount granted for this purpose for the year 1954-55; and

(c) the amount of similar grants, if any, that were made for 1953-54?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The grant given from the Centre to State Governments for the Eradication of Untouchability is mainly intended to be utilised for intensive propaganda and to supplement the efforts of the State Governments. It is, therefore, for the State Governments to allot funds for the various schemes which they propose to undertake and also to select non-official organisations for the execution of such schemes.

LITERACY

641. Shri Bhagwat Jha Azad: Will the Minister of **Education** be pleased to state:

(a) the percentage of increase in the total number of literates in the country since Independence; and

(b) the percentage of increase in 1951 as compared with 1941?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) As literacy figures are available for Census years only, the required percentage cannot be worked out.

(b) About 25 per cent.

RETIREMENT RULES

642. Shri N. S. Jain: Will the Minister of **Home Affairs** be pleased to state:

(a) the number of Class I officers who were refused the customary four months leave preparatory to retirement during the last three years, Ministry-wise;

(b) the number of Class I officers who were granted such leave during the same period, Ministry-wise; and

(c) the grounds on which such leave was refused?

The Minister of Home Affairs and States (Dr. Katju): (a) to (c). The information is being collected and will be laid down on the Table as soon as it is available.

GRANT OF EXTENSIONS OF SERVICE

643. Shri N. S. Jain: Will the Minister of **Home Affairs** be pleased to state:

(a) how many Class I and Class II officers (separate figures) were allowed superannuation extensions for the first, second or third time respectively during the last three years, Ministry-wise; and

(b) how many Class I and Class II superannuated officers had been re-employed and for what length of time in the various Ministries during the same period?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The information has been given in the statement which is placed on the Table of the House. [*See* Appendix IV, annexure No. 39.]

चुनाव में हुआ व्यय

६४४. श्री नवल प्रभाकर : क्या विधि मंत्री यह बताने की कृपा करेंगे कि पेप्सू और त्रावनकोर-कोचीन की विधान सभाओं के लिये जो पिछले चुनाव हुये थे, उनके सम्बन्ध में जो व्यय हुआ, उसका अलग-अलग ब्यौरा क्या है ?

The Minister of Law and Minority Affairs (Shri Biswas): A statement is laid on the Table of the House. [*See* Appendix IV, annexure No. 40.]

MILITARY TENTS

645. **Shri N. B. Chowdhury:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that military tents are being sent to Singapore from India through Calcutta port by S.S. "Eastern Queen"; and

(b) if so, whether these are being sent to the Government of Malaya or to some individuals?

The Deputy Minister of Defence (Shri Satish Chandra): (a) and (b). No tents are being supplied from military stocks or surpluses for Shipment either to the Government of Malaya or to individuals in Malaya. The Ministry of Supply in the U.K. had, however, placed an order during 1953-54 on the trade in India through the Director General of Supply for certain tents for despatch to Consignees nominated by the Ministry of Supply. The Suppliers of these tents are required to make their own Shipping arrangements for despatching the tents to the consignees mentioned by the indentor. Government is not aware whether any shipments are being made by the Suppliers per S.S. "Eastern Queen".

GEOLOGICAL SURVEY OF GARHWAL DISTRICT

646. **Shrimati Kamlendu Mati Shah:** Will the Minister of **Natural Resources and Scientific Research** be pleased to refer to the reply given to starred question No. 240 on the 22nd November, 1954 and state:

(a) the names of the places in Garhwal District visited by the Geologists during the year 1953-54; and

(b) the nature of their report regarding the mineral deposits in the District?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the required information is attached. [*See* Appendix IV, annexure No. 41.]

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LOK SABHA DEBATES Dated.....27.11.201

(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Wednesday, 8th December, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

12 NOON

PAPERS LAID ON THE TABLE

STATISTICAL INFORMATION *re* PREVENTIVE DETENTION ACT

The Deputy Minister of Home Affairs (Shri Datar): I beg to lay on the Table a copy of the pamphlet containing statistical information regarding the working of the Preventive Detention Act, 1950, during the period 30th September 1953 to 30th September 1954. [*Placed in Library. See* No. S-465/54.]

DECLARATIONS OF EXEMPTION UNDER REGISTRATION OF FOREIGNERS ACT

Shri Datar: I also beg to lay on the Table a copy of each of the following Declarations of Exemption under the proviso to section 6 of the Registration of Foreigners Act, 1939, namely:

(1) 1/2/54-F.I., dated the 31st January, 1954—33 Declarations.

(2) 1/3/54-F.I., dated the 12th February, 1954—6 Declarations.

(3) 1/4/54-F.I., dated the 13th February, 1954—2 Declarations.

(4) 1/5/54-F.I., dated the 25th January, 1954—10 Declarations.

(5) 1/6/54-F.I., dated the 31st January, 1954—7 Declarations.

(6) 1/9/54-F.I., dated the 31st March, 1954—1 Declaration.

(7) 1/15/54-F.I., dated the 19th March, 1954—3 Declarations.

(8) 1/17/54-F.I., dated the 4th June, 1954—1 Declaration.

(9) 1/18/54-F.I., dated the 17th April, 1954—1 Declaration.

(10) 1/20/54-F.I., dated the 19th May, 1954—1 Declaration.

(11) 1/21/54-F.I., dated the 6th May, 1954—20 Declarations.

(12) 1/22/54-F.I., dated the 19th May, 1954—1 Declaration.

(13) 1/23/54-F.I., dated the 15th May, 1954—2 Declarations.

(14) 1/27/54-F.I., dated the 24th June, 1954—1 Declaration.

(15) 1/28/54-F.I., dated the 15th June, 1954—2 Declarations.

(16) 1/29/54-F.I., dated the 7th September, 1954—4 Declarations.

(17) 1/29/54-F.I., dated the 30th October, 1954—1 Declaration.

(18) 1/30/54-F.I., dated the 26th July, 1954—10 Declarations.

(19) 1/34/54-F.I., dated the 13th August, 1954—1 Declaration.

(20) 1/36/54-F.I., dated the 9th August, 1954—1 Declaration.

(21) 1/38/54-F.I., dated the 18th August, 1954—2 Declarations.

(22) 1/39/54-F.I., dated the 5th September, 1954—1 Declaration.

[*Placed in Library. See* No. S-466/54.]

REPORT OF REHABILITATION FINANCE ADMINISTRATION

The Minister of Revenue and Defence Expenditure (Shri A. C. Guha): I beg to lay on the Table a copy of the Report of the Rehabilitation Finance Administration for the half year ended the 30th June, 1954 under sub-section (2) of section 18 of the Rehabilitation Finance Administration Act, 1948. [*Placed in Library. See* No. S-467/54.]

PREVENTIVE DETENTION (AMENDMENT) BILL

PRESENTATION OF PETITION

Shri K. K. Basu (Diamond Harbour): I beg to present a petition signed by sixty three thousand five hundred and fourty-one petitioners in respect of the Preventive Detention (Amendment) Bill, 1954.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

SEVENTEENTH REPORT

Shri Altekar (North Sātara): I beg to present the Seventeenth Report of the Committee on Private Members' Bills and Resolutions.

MESSAGE FROM PRESIDENT OF GRAND NATIONAL ASSEMBLY OF TURKEY

Mr. Speaker: I have to convey a message which has been received from the President of the Grand National Assembly of Turkey through the leader of the Indian Parliamentary Delegation, which visited Turkey recently. The message reads:

> "It is a pleasant duty for me to assure Your Excellency that the goodwill of the Indian Parliament as conveyed by Your Excellency is fully reciprocated in the Grand National Assembly of Turkey, and to request you to be so good as to convey, in return, the best wishes of our Assembly to your Parliament."

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—*concld.*

Mr. Speaker: The House will resume the third reading of the Code of Criminal Procedure (Amendment) Bill, 1954. As the House is aware, five hours had been allotted for the third reading of the Bill, but, as agreed to by the House yesterday, two hours out of this were given for the conclusion of the second reading at 5 P.M. so that three hours may be taken up by the third reading today. Since the second reading concluded by 4-40 P.M. and the third reading was taken up 20 minutes before 5 P.M., two hours and 40 minutes now remain for the third reading. This would mean that voting on the Bill, as amended, will take place by about 2-40 P.M.

The House will, thereafter take up the motion for concurrence in the recommendation of the Rajya Sabha for reference of the Hindu Minority and Guardianship Bill to the Joint Committee for which five hours have been allotted.

Shri M. A. Ayyangar (Tirupati): At the third reading stage, I would like to say a few words regarding the Criminal Procedure Code (Amendment) Bill. I had not the pleasure of participating in the debate, nor do I pretend to have contributed to the debate at all, because I had no opportunity. However, I had an opportunity of watching it from day to day and intervening from time to time in whichever manner I was able to.

Now, this is not a controversial Bill, as can possibly be said with respect to political and economic issues or Bills relating to them. But almost every clause provoked some controversy. I must congratulate the whole House on the goodwill that prevailed. No partisan spirit was there and no Party whip was ever issued so far as most of the clauses are concerned—indeed I can say, even with respect to all those clauses. As proof of this, we have in our midst the relentless fighter who fought to the last ditch, who belongs to the Party from which the Government is drawn. I refer to Pandit Thakur Das Bhargava who with his able advocacy and large experience did not let a single clause escape his attention. The discussion regarding this took 54 hours and 45 minutes minus 2 hours and odd which we have still to complete. Now, the time that was allotted was 55 hours. In recent years, we have not had a Bill of this kind to which Parliament—all sides of it and all sections of it—devoted so much thought and care and attention and spent so much useful time. I must congratulate the hon. the Home Minister for the sweet good humour and reasonableness which he exhibited almost at every stage. Nobody can deny his transparent sincerity and honesty of purpose, his enormous ability and standing at the Bar, his rich experience of the world. His idea was that criminal justice must be made speedy, consistent of course with justice, and it must also be cheap. That was understood and appreciated by the other sections of the House also whose intention was that speed ought not to be utilised for the purpose wherever it stood in the way of rendering justice. Therefore there is a balance on either side. Ultimately many of the amendments that had been moved have been accepted and now this represents the greatest common measure of agreement. There can still be some emphasis laid on one section or the other. On the whole we have to congratulate ourselves on the manner in which it has been done.

I ought not to fail to refer to some of the important Members here—that does not mean that other Members are neglected—who have taken part in the debate on this subject. I must refer to Shri Sadhan Gupta who, with his unfortunate defect, has been able to speak as if the book was before him. He read through almost every clause and was the first to get up; he did not let any single amendment go unnoticed. Then on this side, there is Shri N. C. Chatterjee and Shri More, and on our own side—the Congress side—there are Pandit Thakur Das Bhargava, Shri Venkataraman and both the Ministers. This Criminal Procedure Code, I am sure, will help all sections, because women also are not excepted—the maintenance allowance has been raised from Rs. 100 to Rs. 500.

Shri S. S. More (Sholapur): But to get the benefit of that provision, they will have to be deserted first!

Mr. Speaker: Order, order. Let there be no interruptions.

Shri M. A. Ayyangar: Some objections were raised at the earlier stage. It was thought necessary that some other sections—though they did not flow from the amendments embodied in the Bill or provisions referred to in the Bill—should also be taken into consideration, and it was, no doubt, ruled by you, Mr. Speaker that only those matters which flowed from those sections which had been touched upon as auxiliary or ancillary or consequential should only be referred to here.

Now, there are many sections, particularly the security section and other sections with respect to which it is necessary that a Law Commission to go into them and present their report which will come in the form of another Bill later on. There was doubt and suspicion whether a Law Commission might or might not be appointed. A resolution was also tabled to that effect. We have the assurance of the hon. the Prime Minister that a Law Commission will soon be appointed and, therefore, it must set at rest that controversy. I am sure the whole criminal law will come under review by that Commission and ere long, in the light of the new circumstances and the progress of world conditions, the report of that Commission will be acceptable to all parties and will be soon implemented.

[Shri M. A. Ayyangar]

Regarding other amendments that have been tabled, I would say it was also urged that there should be immediate separation of the judiciary from the executive. Some of the important States have already separated the judiciary from the executive and I am sure the hon. Minister is in full sympathy with this object and will implement it ere long in the other States also.

So far as the provisions of this Bill are concerned, much headway has been made. I must at this stage refer to appeals. Hereafter, appeals from the judgments of each and every magistrate will be heard by the Sessions Judge. Thus, even in those States where the judiciary has not been separated from the executive, this will be a wholesome provision which has been introduced in the Criminal Procedure Code and much of the defect in the existing system will be remedied. Even if an executive officer is the Magistrate, there is an appeal to the Sessions Court and it will bring to bear an independent judgment on this matter.

I must say with respect to section 145 proceedings, hitherto the Magistrate was giving rough and ready justice. Now, wherever he is in doubt and is not able to come to a definite conclusion as to which party is in possession or whether the property is not in the pessession of anybody, he will refer it straightaway to a subordinate judge or some judicial officer who gives a finding and that finding is implemented. I find it is an improvement and it has removed the sting of a Magistrate alone being in charge of giving decisions on civil matters and giving the decision as he likes.

There are various other improvements that have been made by this Bill. There is the supply of all papers to the accused even without his request. That is decidedly an improvement. The whole of the prosecution case is laid before the accused and it is open to him even at an earlier stage to know it.

Regarding speed and the procedure before the Sessions Court, originally, in the Bill, it was thought of doing away with the preliminary enquiry altogether, and after taking only the statements, and sending the accused for trial before the Sessions Court: There has been a lot of opinion in recent times that the preliminary enquiry is absolutely unnecessary, because in serious cases the accused does not take the risk of cross-examining the witnesses at the preliminary enquiry stage lest any lacuna in the evidence of the prosecution may be filled up later on. That is what any chary lawyer advises his accused and he does not cross-examine at this stage. He would like to have a full picture. With that end in view, the hon. Home Minister originally, in his Bill, said that there need not be any preliminary enquiry at all and only the statements and other things may be recorded and even the presence of the accused was thought unnecessary. But the Select Committee made an improvement on that in that the accused might be present and on the basis of the material that was placed before the Court, it was open to him to argue that there was no case against him. Here, on the floor of the House, it was felt that the mere presence of the accused for the purpose of arguing out his case was not enough but important eye-witnesses should be brought in and allowed to be cross-examined. We have made a definite improvement here and there is a balance struck. A little more prolonged enquiry at the preliminary stage will be allowed. I believe this will be worked in the spirit in which this amendment has been made and there will not be any injustice at all in future so far as this matter is concerned notwithstanding the fact that full opportunity to cross-examine only some witnesses has been allowed. Enough has been done at this stage. A similar procedure to save time has been made in the case of warrant cases also. It is said that in warrant cases, except in those of a private nature where it is a cognizable offence, the trial should be on the lines of summons cases. That was what was originally intended. But, an improvement has been made that even at the earlier stage a right of cross-examination is given and whichever witness, in the opinion of the Judge, is necessary to be cross-examined, is also allowed to be brought next time. I need not, at the third reading stage, refer in detail to all that has happened. I can only say that consistent with the idea of speeding up justice no injustice has been done to the course of justice.

Hitherto a kind of patronage was being exercised by the party in power and by the Government for the time being by appointing all and sundry as Honorary Magistrates. Today, under this Bill, it is necessary that before a person is appointed as an Honorary Magistrate of the First Class or the Second Class, he must satisfy certain qualifications which are prescribed by the High Court. This is a definite improvement over the existing provision.

Regarding speeding up, I find that there is a welcome provision. At the same time, it does not interfere with the discretion of the Magistrate. Day after day the case has to go on. I had also some experience at the Bar. I have found in many cases where the prosecution is ready the case is adjourned. I have also known cases where the prosecution is not ready the Magistrate sits tight upon him and throws out the case. I know personally of a case where I had gone for lunch because we had expected that the Magistrate would come late,—after one hour. Immediately he came, he began the case and called the witnesses and when the complainant was running, before his very eyes, to the Court, the Magistrate said, 'Complainant absent, case dismissed'. God save us from such Magistrates. Though this kind of restriction or a direction that the case must be proceeded with day after day is there, such kind of Magistrates are likely to continue to exist. I hope with the change of government and with the winning of freedom, they will feel more responsible.

I am in complete agreement with the hon. Home Minister in doing away with the assessors. The assessors have not done any good. There is no good comparing this country with other countries where for over seven hundred years they have worked it out and established a kind of democracy. The people are reasonable. Here in this country we know of cases where a murder takes place and a father and son have seen that. Though they have a right to testify to it on behalf of the prosecution, yet when the son speaks about it, the father comes and tells him, "You fool, you look to your prospects in future; why do you involve yourself in all this"? This happens even in very serious cases. It is very difficult to get witnesses in this country. You know the quality of the assessors chosen. Nobody who has got some business ever agrees to come as an assessor. You cannot force them very often, though the Court has got the power. Nowadays there is no need for assessors.

Regarding the jurors there has been some distinction made. Some cases, with the consent of the High Court can be tried by the Judge himself and in other cases the trial has to be with the jury. There is no good thinking that in Russia or China they are meeting out rough and ready justice. We have not seen all that. We cannot say that if a certain person is hanged for an offence—whether it is good or bad—others will not commit that offence. We have not yet agreed to that proposition that irrespective of the fact whether a man is innocent or not, if he is hanged, other people can certainly be put down and we can certainly put down all sorts of crime. We are not adopting that kind of ideology. Under these circumstances, it is necessary that no innocent person should be convicted. And, no complainant in our country ought also to go away if he has a right case. There has been too much of emphasis in recent times upon the right of the accused. I have also been tack

[Shri M. A. Ayyangar]

these questions. I know of a case in which the accused who was a blackguard was acquitted. I chuckled over that. Of course, this was during the early stage of my life and not now. I ask my lawyer friends honestly how many of them have not done so in their early life. After he has become mature and experienced and has become rich when it is not necessary for him to take every case, he can afford to pick and choose. But, in the earlier stages he has to take up all sorts of cases. How many of us have chuckled when we have got an accused acquitted? We were more anxious to secure an acquittal than to have real justice. We were more anxious for a victory even though the accused may be a scoundrel rather than render justice. I am not accusing any other hon. Member. I myself have done it and there is no harm in accepting that. Therefore, is it not time for us to read just our ideas and impress upon the world at large that whoever comes to Court will not go unrequited? We are trying to see that no man who is innocent shall be convicted. In the earlier stages we always want that every accused should get away, that we should have a victory, a hectic victory over the others. I say the time has come when we ought not to allow a scoundrel to escape as far as possible; at the same time, no innocent person should be convicted. This is all I have to say in this connection.

So far as investigation is concerned, much has been said, but I would like to say one thing. The hon. Home Minister has introduced a very wholesome provision that if the case drags on for more than sixty days, if the accused is in jail, he shall be automatically or to a large extent released on bail except in exceptional cases. That is a very good provision. But what about the enormous period for which these persons are kept in custody during the investigation stage? I would urge on the Hon. the Home Minister to issue instructions that if any person has been kept in custody for 15 days or a longer period, that period also should be taken into account in imposing the new sentence. At any rate 50 per cent. of the time he was kept in jail in remand ought to be counted in his favour and the sentence of imprisonment reduced accordingly. This alone would meet with the ends of justice. Also, in cases where the Judge finds that 15 days or half the time that he was in remand ought to be deducted in the case of imprisonment, the prosecution, the police officer, ought to be dealt with as to why he kept the investigation dragging on for such a long time. This alone will meet with the ends of justice.

Now, there has been some difference between public prosecution and private prosecution. I would urge upon the Home Minister to take an early opportunity also to bring in a provision in order to remove any difference between public prosecution and a case where a complaint has been launched by a private individual. There should be no difference between a case started by a private party and one started by a police officer. Whatever applies to a police charge-sheet must also apply to a private individual. There is no meaning in giving three opportunities to cross-examine. That does not improve matters. It only means that the case is dragging on. I know of many cases. Whenever I appeared for some complainant, the accused went on taking time and swallowed up witness after witness. After the second hearing I found one witness less—eaten away by the others. How many times are we to contend against this? Is it abstract justice dropping from heaven that we are trying to provide or real justice according to the circumstances of each case? It is not one universal law applicable to the whole world. There is absolutely nothing like that. I do not want the hon. Minister to apply the same provisions to a private complainant. He may do so, but there is the other party who is brought before the Court of Law.

I appeal to all lawyers and all public men in the country to co-operate and raise the moral standard of our people. In criminal cases, particularly those charge-sheeted by the police, it is no man's concern. He complains to the police and then he enters into some kind of arrangement with the other side and then his own witness is placed over the prosecution. Let us not feel that the Criminal Procedure Code is intended to support rogues and scoundrels. That is the impression that is created outside. If one man who is a culprit escapes, it creates an amount of suspicion against Government as a whole. There are many cases where you want abstract justice. God must himself come. Let us have a balance so far as this matter is concerned. It is the duty of every lawyer to do what is his duty. In marginal cases God alone decides these matters. It is the duty of all interested in the welfare of the State to see that the offender is brought to book and to see that some technicalities of law do not stand in the way of rendering justice.

I thank all the hon. Members here and the members of the panel of Chairmen who had to sit and conduct the proceedings.

It is no very interesting story. It is no interesting piece of legislation to discuss clause after clause, amendment after amendment. So many amendments have been tabled, some of them being ticklish. Therefore, I must, on behalf of the House, thank all the members of the panel of Chairmen who had to sit and conduct the proceedings.

Shri A. M. Thomas (Ernakulam): I am very glad to echo the sentiments that have been expressed by the learned Deputy-Speaker: Lawyers have classified judges into two classes, namely, convicting class and the other, acquitting class. It is said that those lawyers who have been recruited to the Bench and who have had a lot of criminal practice and who have been responsible for the acquittal of so many persons, generally have a convicting tendency when they come to the Bench, because they are aware of the fact that the accused take advantage of several technicalities that find a place in the Criminal Procedure Code.

The proposals brought by the hon. the Home Minister in the original Bill have been coloured to a certain extent in account of several acquittals that have taken place owing to technicalities. Dr. Katju himself an experienced lawyer has been responsible for several acquittals and there is no wonder that he has been influenced by that situation and his original Bill was coloured by many provisions because of that background.

[MR. DEPUTY-SPEAKER *in the Chair.*]

I submit the Bill as it has emerged out of the Joint Committee and as it will be finally passed by this House, has got rid of very many objectionable features that have been pointed out by the hon. Members at the time when this Bill was referred to the Joint Committee and after it has emerged out of the Joint Committee. It is said that there cannot be vested rights in a procedural law. I submit that vested interests really came into conflict when we discussed the Bill at the prior stages. Mr. Chatterjee, when he spoke on the Bill, said that no less a person than Laski had pointed out that vested interests of lawyers form the greatest obstacle in law reform. I submit that Mr. Chatterjee himself has been a little guilty of being influenced by vested interests when he pleaded for several of the technical provisions in the original Criminal Procedure Code. That has been the experience, I should say, with regard to other experienced lawyer Members of this House.

It has been said that the Criminal Procedure Code is the 'Bible of the Police'. It has also been said that it is the Bible of an experienced criminal lawyer. A highly-placed police officer in his address to the law apprentices of Madras had occasion to remark very recently, after tracing the history

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of the Code of Criminal Procedure and the Evidence Act, that:

> "the British administration of the past had a mistrust of the Indian officers with the result that this mistrust permeated all these Codes. In fact, books on medical jurisprudence commenced with the saying that the Indian witness was 'more not trustworthy' being prone to mendacity. The entire Code being based on this distrust, the enforcement machinery too came to have this distrust and just as trust begets trust, so distrust begets distrust and the policeman of that day was the object of distrust both by his higher officials and the members of the public."

This was the background under which the Criminal Procedure Code was enacted. We have had a hundred years' experience of the working of the Criminal Procedure Code and after the attainment of independence, it is high time that we change certain of the procedural aspects of this law.

It has been pointed out that there should not be any piecemeal amendment of the Criminal Procedure Code and that we should await the report of the Law Commission which the Government has in view. But the field with which the Law Commission would have to deal is a vast ocean and we should not certainly see that some changes which are long overdue should be allowed to lie over pending the report of the Law Commission.

In this connection I would submit that the first thing that we have to take up—and for that the Government should not await the recommendations of the Law Commission—is the Civil Procedure Code. We also know that years lapse after the filing of a suit for getting justice. People have so to say lost faith in the Courts. In administering speedy justice, the field which the Government has next to take up, is the field of the Civil Procedure Code.

It is also necessary that suitable amendments should be made to the Law of Evidence so that, that may also be brought in conformity with the changes that we have adopted to the Criminal Procedure Code.

A lot of criticism that has been levelled against the changes that have been brought about by this Bill, has been bottomed on the distrust of the officers and the police and unless we create such circumstances which will instill absolute confidence between the administration, police and the public, it is not possible to administer the law even as amended, to the satisfaction not only of the litigant public, but also of the public at large.

The very first thing that is necessary for that is the separation of the judiciary from the executive. We, as a matter of fact, know in States where the judiciary—the magistracy—is still under the control of the executive, they are influenced by the police officers. I know of instances where Magistrates have been demoted and where Magistrates have been sent away from service on the reports of mere Police Inspectors. Therefore, such circumstances should not exist. It has been stated by the hon. Home Minister himself that he proposes to convene a conference of the Home Ministers of various States. I should think, that, if in all States this reform has not been effected, it should be given the top priority and only if the magistracy is absolutely independent of the executive we will be administering justice under the changed law according to the objects that we have in view.

When Shri A. K. Gopalan and others spoke on this Bill they waxed eloquent on the pitiable condition of the various under-trial prisoners. Shri Gopalan cited instances to show that even in the committal stage a period of 3 to 3½ years usually passes. I should think that such a state of affairs will certainly not be repeated when we administer the provisions of the Criminal Procedure Code as is being amended by us now.

I would, at the same time, suggest to the hon. Home Minister one thing; that he may place before the conference of the Home Ministers. The Home Minister himself, not only when he discussed this Bill, but on previous occasions also, has narrated to this House the deplorable condition of the various lock-ups in our country. Sir, it is a blot on our civilisation, how the various lock-ups in the several States are being maintained. While we are zealous of seeing that the accused should not be an under-trial prisoner for long, we must also see that human conditions exist in the various lock-ups of the States. That is a reform which is long overdue and the Home Minister, I hope, will certainly devote his attention to that aspect.

The primary object with which this Bill has been brought is to avoid unnecessary delay. In several respects, I should think, if we apply the provisions of this Bill, unnecessary delay can be avoided. Sir, you pointed out how delay can be avoided in Chapter XII section 145 proceedings if we administer the law according to the amended procedure. We, as a matter of fact know that proceedings under section 145 of the Criminal Procedure Code, in the Magistrate's Court are carried on for years together—six or seven years—and even then there is be no finality; we have to reach finality in a Civil Court. According to the amendments that we have now adopted, within a period of three to six months we will be able to reach a finality with regard to the question of possession by the Criminal Court and the parties can fight out their rights in the Civil Court. That is a very welcome provision that has been adopted by this Bill.

One subject which has been the subject of vehement criticism has been the changes that we have adopted in the matter of law of defamation. It is a well recognised thing that defamation is primarily a civil wrong, but, all the same, according to our Criminal Procedure Code, it is a criminal offence, and because the hon. Minister was pleased to accept an amendment to the effect that the changed procedure will affect only with regard to the "written word", I should think that the class of people that is going to be affected is mostly the class of journalists. I should think that, if the journalists themselves take this in the right spirit, that will take us a long way in the matter of building up of healthy journalism in this country. It cannot be denied that there has been scurrilous journalism here; what we call "yellow journalism" and as circumstances at present exist nobody attaches any value to any sort of criticism in newspapers. Now, I think that situation will change and if any charge is made against a Minister or a public servant, that would be taken note of; and if the Minister or the public servant concerned does not choose to go to the Court himself, the Government itself will take up the matter and see that either, if the public servant is really guilty, he is not exhonerated, and if, as a matter of fact there has been irresponsible criticism and charges without any basis, the persons who have been responsible for that will be punished. I should think that the changes effected in this respect are really good and they will certainly engender among journalists a healthy spirit.

Sir, I do not want to take up the time of the House any more. One important advantage that the criminal lawyers have now got is the advantage of getting the copies of relevant papers. We know that in regard to criminal lawyers the cheapest form of defence is an attack on the police investigation and to enable them to be well prepared and effective the copies of the relevant papers at the investigation stage will be very useful. That is a change which will be taken advantage of by the lawyers in the country at large.

When we charge the Home Minister of having brought before this House, so to say, a "Police Bill"—Shri Chatterjee even charged the Home Minister as having brought a "Police Bill"—we should take into consideration all these aspects also

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whereby several of the abuses from the side of the police can be easily detected and taken advantage of by the accused.

As you have said, Sir, the amended Code should be given a fair trial and, if necessary, we can introduce amendments at a later stage.

Shri H. N. Mukerjee (Calcutta North-East): I rise to speak with some trepidation because in spite of a certain smattering of legal knowledge which I once sought to acquire, I am really no lowyer and I have practically no experience of the Criminal Courts so that I cannot draw upon my experience like so many of my hon. friends have done, and that is why I feel somewhat diffident in rising to speak. But I fear that this is a measure which affects not only those who are interested in the profession of law but it is a measure which affects the public, and that is why I rise to contribute whatever I can even at this late stage of our discussion.

In a very short while the Home Minister will be enabled to pack up his troubles in this House over the Criminal Procedure Code (Amendment) Bill and he will smile happily at his achievement in having piloted this tremendous measure, but I feel that it is a pity that he does not realise that already his tenure of office has been besmeared by a sequence of ugly and panicky anti-people legislation and that his latest performance is something of which, perhaps in his less complacent moments, he will have reason to be ashamed. I say so because the Bill, which he has brought forward, has roused something almost like indignation all over the country and it has met with a hail of opposition in the Press.

Shri Raghubir Sahai (Etah Distt. North East *cum* Budaun Distt.—East): That has died down by this time.

Shri H. N. Mukerjee: I find also that when this measure was being discussed in this House, all sections of opinion in the House were wholly arrayed against it. Of course, there was the question of party discipline, and of course, on so many occasions the votes went against the Opposition to the Home Minister's Bill but the voices showed which way the minds of the Members of this House were working. Members got up from different sections of the House and in different ways, with different emphasis they have opposed this measure. I know, of course, they have to say that they welcome it, because after all, the Government has brought in this voluminous piece of legislation and there is no getting away from it, but all the same the trend of discussion has made it clear that all sections of the House have felt misgivings, more or less serious, more or less fundamental, in regard to this measure. I have been supplied by a friend who is rather statistically-minded information about how the discussion of the Bill has proceeded. I have been told that the Bill was discussed for over 70 hours and about 39 speeches were made during the general discussion, and of these 39 speeches, there is perhaps not a single speech, excepting of course the speeches of the Ministers, which supported, without qualification, the Bill or the original stand of the Government. There was almost unanimous opposition from all sides of the House to the Bill as it was drafted, and in spite of the changes made by the Select Committee, which were very far from adequate, in spite of certain amendments which have been accepted with a sort of ill-grace from the Home Minister from time to time, we find that the result is something with which the House surely cannot be happy. You, Sir when you spoke from the floor of the House, appeared to indicate that the House has reason to congratulate itself on the passing of this measure. I interpret your statement to mean that the House has reason to congratulate itself on the patience with which it has discussed this measure, but I do not think that it was in your mind even to suggest that this measure, as it has come, is something which the House is very happy in being about to pass. It may be that I am not interpreting your mind correctly, but from the trend of the discussion which has gone on for so many days which I have tried to watch with some little effort, I have deduced that, after all, this is a measure about which we are not at all happy. When this Bill becomes law—and it will become law because after all, the Home Minister has an enormous majority in the House behind him—we shall find that the people will ask: How is it that this kind of legislation is thought to be necessary by the Government of the day? Why is it that this Government talks of this country being a welfare State? How is it that, when the Government talks about this country pursuing all the finest traditions of parliamentary democracy, this kind of legislation has got to be passed in this context? That is why I feel that this Bill is an illustration of Congress democracy in action and that Congress democracy is a sorry mess which will sooner rather than later have to be cleaned up by our people.

Pandit K. C. Sharma (Meerut Distt.—South): By your party.

Shri H. N. Mukerjee: The Home Minister said that there were two main objects in putting up this legislation—that he wanted facilities to be given for proper defence to the accused and even more than that he wanted speedy disposal of criminal business. When you spoke, I noticed one point which was of considerable importance and that was that you emphasised that crime, when it occurs, certainly has got to be published. Nobody would demur to that view. Certainly, wherever crime happens, it has got to be put down with a stern hand, but the point is: how exactly are we going to do it? You suggested moral reformation. That is, of course, a very sound prescription, but how is this moral prescription going to be achieved? Is it going to be achieved by greater and greater dependence on a certain apparatus of coercion, the police, which we have inherited from the British and which we are now going to entrust with powers with which this particular measure is concerned? We certainly want moral reformation, but that kind of moral reformation will only come when the people have an idea that this country is wholly and truly theirs, that the resources of this country are not going to be monopolised by a privileged few, that this country is theirs to the extent of their being able to enjoy the products of their own labour in this country. Till we get that feeling in the minds of our people, we shall never have the kind of moral reformation which we want. Whatever sermons we deliver from time to time in Parliament or outside, our people will not show signs of moral reformation. If the Government had come forward with some serious intent to tell our people that it really wanted to do something big, then surely that moral reformation would start here and now. Government has to come forward with legislation of a very different sort, but Government chose to come forward with this kind of tightening up of the Criminal Procedure Code, so that it can be at any rate harsher than it was in many respects under the British dispensation. We have been told from time to time that Government have very comprehensive schemes. Only the other day there was a resolution backed by a large amount of popular support for the appointment of a Law Commission, and the Prime Minister was good enough to give an assurance that a Law Commission would very soon be appointed. Perhaps, a Law Commission would be appointed, after two years it will get out a report, for five years afterwards there will be a lot of cogitation over it, and perhaps after all that we might get some "Dead Sea fruit". I want to know here and now why is it that Government does not come forward with a really serious effort to change the legal system of our country. We are told so many times about Hindi going to be our

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State language for all practical purposes. If we are serious about it, if we are going to employ Hindi for the purpose of judicial determination at the highest level in our country, we certainly have got to change the entire structure of law in this country. Today, the law that we administer is Indo-Anglian law and for the purpose of administration the Judges and lawyers have to refer to precedents, have to cite all sorts of judgments and things and have to quote English reports dating from the 12th century and refer to Lyttleton, Bracton and Fortescue, and so many other authorities from English law and then the Judge, after a great deal of mental gymnastics, has to come to a certain decision. Are we going to maintain this kind of complicated apparatus which helps nobody at all? If we are serious about the reform, if we are serious about Hindi, we have even to translate the enormous tomes of English law reports into Hindi and then have them referred to from time to time by the Judges and by the lawyers. Or, we have got to simplify the law. I do not see why we cannot have a simplified form of law. If in the Napoleonic Code they could do so, if in Turkey they could adopt that Code, why cannot we adopt some kind of simplified criminal law, simplified civil law and make them applicable to all people in our country? But the Government do not proceed on those lines. This Government is afraid of fundamental thinking. This Government does not like to go in for a basic change. This Government does not like to attack vested interests, even the vested interests of the lawyer Members of this House. That is why we find that Government does not come forward with comprehensive legislation.

Forgetting that aspect of the matter, I would now refer to another point which was raised in the course of the discussion earlier, and now that we are thinking of revising criminal jurisprudence in our country that point ought to be a justification of whatever Dr. Katju is trying to put out. If we are going to do that, we are thinking deeply about the problem of crime and punishment? Are we thinking of the retributive and reformatory aspects of criminal jurisprudence? What is our contribution in that respect? What is our Government doing in order to mobilise the thinking of those who have tried to devote some of their time and talent to that subject? That is not being done. We have been promised a Law Commission which will in its own dilatory way, with which we are very familiar, produce some time in the future some kind of a report and something will happen. Government does not go to the fundamentals because Government is not sure of itself, and the Government is only refurbishing the weapon in the armoury which it has inherited from the British regime. That is why we have got this Criminal Procedure Code; that is why I said that however vehemently the Home Minister may deny it, there is one black thread running entirely through this Bill and that is this: that the accused must, to all intents and purposes be presumed not to be innocent—if not to be guilty, at least not to be innocent—and that the police are truthful and zealous servants of the public and that perjury is practised by defence and not by prosecution witnesses. (*Interruption*).

The Minister of Home Affairs and States (Dr. Katju): He is doing me great injustice.

Shri H. N. Mukerjee: I know that the Home Minister would vehemently deny all these things, but that is what we find to be the principal item in this particular piece of legislation. Why is it that so many difficulties, so many hurdles, have been additionally put in the way of defence?

Mr. Deputy-Speaker: Cannot the hon. Home Minister say, on the other side, that every complaint is false and frivolous and get on with the presumption that every accused is innocent? There must be a balance.

Shri H. N. Mukerjee: In trying to strike a balance, the Home Minister has produced something which is neither fish nor flesh. It is necessary for us to make up our minds...

Mr. Deputy-Speaker: A vegetarian is unable to understand this.

An Hon. Member: He certainly takes eggs.

Shri H. N. Mukerjee: Perhaps being a vegetarian himself, the Home Minister will be unable to understand the analogy that I gave, but I am sure, having practised before the English Judges so long, he would understand what I am driving at. It is absolutely clear that so far as this legislation is concerned, there is this idea at the back of the mind of the Home Minister,—though not at the back of his mind, it is almost in front of his mind,—the idea of false and fabricated cases. This appears to him something almost fantastic. My friend, Shri A. M. Thomas, was speaking a little while ago about certain things that are being done. Well, I do not wish to damn the entire police force. I know there are some very fine men in the police force, but, at the same time, the police force has inherited all the vices and the traditions of a certain system, and that system has not begun even faintly to change. Until we have it changed entirely we shall not get the results that we profess that we desire. This Bill gives to the police certain powers which should not be allowed.

There is not much time left for me. I would proceed to refer to certain things which have been brought very authoritatively to the attention of the hon. Home Minister but he does not seem to have taken much notice of them. One of the highest judicial authorities in this country, when sounded for his opinion on the amendments to the Criminal Procedure Code, told the Home Minister in these terms:

> "Dissatisfaction has been voiced regarding the administration of justice; it is not due to any material defects in the system; it is due to its faulty administration."

Personally I feel that the whole system is bad, lock, stock and barrel, but this particular judicial authority uphold the present system, but he says that the fault is not with the system but it is a question of faulty administration. He adds:

> "Generally speaking, the machinery that is responsible for the administration of the system has become inefficient, indolent, dishonest and corrupt. No reform in the system can improve matters if the machinery for its administration remains the same."

Referring to the different parts of the machinery—particularly he refers to the magistracy and the ways of magistrates—he says:

> "A Magistrate has very little time to attend to his judicial work. He has to perform multifarious duties apart from his dancing attendance upon higher executive dignitaries. Superadded to his various head-aches are the touring Ministers who tour about the country most of their time. They have to be received, attended to and their fads met with."

It is an observation which has come not from Members of Parliament who are sometimes presumed perhaps by the Home Minister to speak frivolously and irresponsibly, but from one of the very highest judicial personalities in this country, whom I need not and would not specify.

Shri N. C. Chatterjee (Hooghly): Justice Mahajan.

Shri S. S. More: Justice Mahajan.

Mr. Deputy-Speaker: Again and again, dances are referred to, but what kind of dance is it? Kathakali or Bharata Natyam?

Shri S. S. More: It is the ministerial dance.

Dr. Katju: Judges may be wrong. They are often found to be wrong by the appellate Court.

Shri S. S. More: Justice Mahajan said what Shri Mukerjee was reading.

Dr. Katju: I do not know.

Shri H. N. Mukerjee: It was Justice Mahajan whom I was quoting. That being so, it is very important for us to remember the implications of this measure and to see how this goes right against the spirit of the right kind of legislation that we desire. Shri A. M. Thomas also has referred to the defamation clause. The Home Minister was pleased, after a lot of quibbling, to accept certain amendments but they do not really touch the root of the matter. He has not really yielded at all and the difference he has shown is just the difference between tweedledum and tweedledee. He has made the written word amenable to the kind of stern punishment which he has in view. This is something which militates against the freedom of the Press, but the Home Minister has specialised in attacks on the Press over and over again by legislation and by other methods. But we cannot, without the stoutest opposition, allow a measure to go through, which attacks the Press in this fashion.

In regard to committal proceedings also, he has made the police position very much stronger than it was before. A shadowy committal trial is going to be the rule from now onwards. Many an innocent person would be put to harassment and worse on this score.

On the question of perjury also, the hon. Minister took up a stand which was opposed by almost all sections of the House. Whoever spoke about it said that the Government took up an attitude which was entirely wrong. It appears that a Magistrate or a District Munsiff or a tuppeny-hapenny person may, while writing a judgment, record a finding that a witness might have perjured and that would put him in a very difficult predicament. We find also that the Home Minister, right at the very beginning, said that those particular aspects of the Criminal Procedure Code with which our people were very much concerned, and which they wanted to change altogether, should not be discussed at all. For example, we may refer to section 144, that perpetual pinprick on our people's patriotism, but we have not been allowed to discuss it at all. That is how the Home Minister has proceeded as far as this measure is concerned. I know that this Bill is going to be law in a few hours' time as far as our House is concerned. I know, even though we had the voices of all reasonable Members of this House with us, their votes will unhappily go against us. We know also that the Home Minister is paving the way for that state of serfdom to which this administration is trying to reduce this country. We know, however, that our people will not tolerate this kind of thing to go on for very long. In spite of whatever observations the Home Minister may choose to make, I repeat on behalf of our group that we are unalterably opposed to this measure and we shall oppose it tooth and nail.

1 P.M.

Shri S. S. More: At this third reading, I desire to make in as brief a manner as possible a retrospective survey of what we have done.

This measure will have to be viewed against the background of the approach of the Minister to the criminal problems of this country. I am very happy to say that this approach is neither a democratic approach, nor the approach of a Minister who is running a Welfare State. It is an approach which reflects the mentality of the hide-bound bureaucrat, out to perpetuate a Police State. Look at the provisions and see who has gained. The Magistrates have gained that is augmentation of the powers of the different categories of Magistrates. They have now the power to impose higher levels of fines. There is also gain to the Judges of the

Sessions Courts. Not only that. The police also have gained. For instance, under section 162, they can use their own statements, that is, statements recorded by them, not in a fair manner, to serve their own purpose of bringing the accused into some trouble. Along with that, they have a whip hand as far as the accused are concerned. Who has suffered? It is the accused who has lost all along the line. Under the old Code, he had three rights of cross-examination. He has lost some of those rights. Now, under the old Code, he had only to look to one sort of procedure. But, now, if he is prosecuted by the police, there will be one procedure. If he is prosecuted by a private person, there will be another procedure. We have been complaining that there are too many castes in this country. We have been complaining that there are too many Ministers sitting on the Treasury Benches. Yet, there is addition every day almost. We are now forced to complain that there are too many procedures: one public procedure, another private procedure. This multiplicity of procedure is not going to strengthen the criminal apparatus which we propose to set up in this country.

I am extremely unhappy over this defamation procedure. We are forced to refer to it again and again because, this is the crux of the whole matter. I think the main desire of the Home Minister is to have this particular provision in the statute-book and the other provisions come only in a subsidiary way. While the real bridegroom of this procession is this particular clause, others are persons who are accompanying the bridegroom. Particularly, why should there be protection to the Ministers? I am not speaking in a partisan spirit. I know that one Party may be there on the Treasury Benches today, but tomorrow, the chance may come to other parties or somebody else may be sitting on the Treasury Benches. But, we are politicians. We are dealing in politics. Politics is a dangerous game. You have to give and take. You have to develop the skin of rhinoceros if you want to continue in politics. When we are sitting in the Opposition, we are exposed to all sorts of slings and arrows from the Treasury Benches. But there is no armour provided for us to shield us from those attacks. Why should the Ministers alone be chosen to give protection under this criminal law. My submission is that this is absolutely undesirable.

I may refer, with your permission, to the report that was submitted by Shri Gorwala who was appointed to go into the incidence of corruption and the different administrative laches that we find in this country. In a very well considered manner, on pages 16 and 17, he refers to the charges of corruption and inefficiency regarding the Ministers. He says that so many charges are being levelled against the Ministers in an open manner. Is there any machinery for enquiring into then? No. Literature is being produced, pamphlets are issued. People are going up seeking sanctions. They could not be prosecuted, even when the accuser has evidence in his possession, because section 197 of the Cr.P.C. comes in the way. He is treated as a public servant and he cannot be prosecuted without Government sanction. We have to apply for sanction. Here is a case. I need not refer to it by name. An application was presented to the Governor for sanction. The Governor is supposed to act on the advice of the Chief Minister. Sanction was sought against the Chief Minister. The person against whom sanction was really sought was the person who was to tender advice to the Governor. No sanction was given. Such things are happening. This is the way in which you want to maintain the purity of administration. Purity of administration should be the basis and foundation of a healthy democracy. If our democracy is to survive, is to gather health and put more flesh on its bones, this purity should be above suspicion. That should be the prevailing notion and the guiding star. Here attempts are made to give protection to Minis-

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ters, let alone public servants. Why should Ministers be protected in this way? With your permission, I shall quote a short passage from Gorwala.

> "The best form of machinery would be a tribunal for the purpose of which is not to punish but to find out and establish facts. In other places such tribunals have found it possible to enquire into the conduct of Ministers of the Crown and high Government officials without in any way making it impossible for them to continue to work..."

It is argued on behalf of the Government that when prosecution is launched for the purpose of defamation against the Press or any individual, he will get an opportunity to prove corruption. Shri Gorwala, referring to several authorities, says:

> "Corruption, it is said, is difficult to prove."

I need not at this stage quote extensively taking up the time of the House. You prevent the man who is out to expose the great ulcer running in our body; you punish that man. This is not the way of fighting corruption. The Planning Commission has said, corruption is rampant. They have said that we must carry on a continuous war against corruption. But, Government, by this measure are trying to carry on a continuous war not against the corrupt officers, but against those who are out to disclose, out to reveal corruption. We are extremely unhappy. Again I must say that the correct approach ought to be an approach of social welfare. In Western countries the criminal is treated like a mental patient. He is not hunted, hounded out, but there is something wrong, inherently wrong, in the mental make-up of the criminal. The social conditions have produced this urge for crime, this itch to commit some crime. For instance, persons who are congenitally deformed, ugly, are ridiculed by everybody. The result of that persistent ridicule is that a sort of bitterness develops in the mind of such a person, and he may feel: "If everybody is out to ridicule me, to put me down, to find out my deformity, point out his sneering finger at me, I will take vengeance on the whole of society". And he goes through a long career of crime. So, plastic surgery is coming forward to take away this deformity. So, we will have to try something like that. It is not the bludgeon of the Home Ministry which will drive out the criminals. They will become more wary, they will take to more clever methods of avoiding the police. They will take to some other means of evading the noose that you are trying to put round their necks. This is not the way.

I will again say that this Government, if it is sincere in its desire that there should be a Welfare State, should look at this problem from the welfare aspect. It cannot look at this problem from the sergeant's point of view, going about with bludgeons, going about with handcuffs. The handcuffs might restrict the hands, but they will not change or affect the reactions of the bitter mind that has been produced by society.

With these words I say that this Bill has not been well-conceived, this Bill has not been well piloted, this Bill does not reveal the welfare attitude on the part of the Government. It only reveals an attitude on the part of Government which is determined to put down crime not like a mother trying to bring round an erring child, but it is the attitude of a sergeant who is going about with a big baton and trying to knock it on everybody's head who is supposed to commit some crime.

The Deputy Minister of Home Affairs (Shri Datar): The third reading has been meant more or less for the purpose of taking a view in retrospect of what we have done so far as the present Bill is concerned.

I would not go into any minute details, but so far as the question of the revision of the Criminal Procedure was concerned, the Government of India have been at it for at least two years, if not more. A number of State Governments also had raised certain questions, appointed certain committees and the reports of these committees also were before the Government. Therefore, when early in 1953 this question was taken up by the Ministry of Home Affairs, we had considerable material which would show that the Code of Criminal Procedure required certain amendments.

There, one particular question of a fundamental nature presented itself before us, as to whether it would be proper on our part to change the fundamental principles of jurisprudence on which the Code of Criminal Procedure had been based, principles which had been more or less satisfactorily worked out over nearly a century. Then, after considering all the circumstances, the Government came to the conclusion that the fundamental principles should not be changed at all because they were sound and they had been found to be sound by experience not only in other countries, but in India as well over a period of one hundred years. It would be wrong at this stage to call in question the principles of British jurisprudence only because they come from a particular country. There are certain very sound principles, and every man, given the choice, would like to be governed by these principles than by others. I would not mention what those others are. After all, they worked for democracy, they worked for a certain satisfactory state of affair and a proper and efficient administration. Therefore, Government came to the conclusion that there was no justification for a fundamental change so far as the eternal principles were concerned.

Then, Government took into consideration a number of points on which changes were required because the administration of justice, especially the administration of criminal justice, has to be extremely sound, has to be also generally satisfactory so far as democracy in India was concerned, and for that purpose, we had a circular issued to the State Governments. They consulted various Bar Associations and the Benches also and they made certain proposals to us. Now, after considering all these proposals, the Government of India placed before the democracy of India a Bill which was published in the Government of India Gazette in December, 1953. Thereafter, we had a volume of opinion including criticism, and I must here say that on the whole the criticism that we received was very intelligent and naturally critical also.

Shri Tek Chand (Ambala-Simla): But not acceptable.

Shri Datar: After considering these further comments, the Government of India accepted some of them, and they incorporated them in a Bill which was presented before Parliament in the Budget session just this year. Thereafter, we had a long discussion. Certain measures were considered as highly controversial, and then the matter was referred to a Joint Select Committee which made certain very valuable changes, because, after all, what we desired was not that all the changes that the Government desired should be carried out, but that in carrying out the changes, Government desired to have as large a measure of agreement from the public and from the hon. Members of Parliament as possible. Therefore, you will find that, in spite of what has been stated by certain hon. Members of Parliament from views which are interested because they are looking at all the changes from a particular viewpoint, my desire was and the policy of the Government has always been, so far as this measure is concerned, that we should carry as large a measure of agreement from both sides as possible.

Babu Ramnarayan Singh (Hazaribagh West): No.

Shri Datar: It was. Therefore, a number of changes were made and after the report of the Joint Select

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Committee came here, we have also made some further changes which might kindly be noted here.

I would not go into the various changes, but I would point out to you that at least on nine or ten very important and controversial matters Government have accepted the views of the Members from all sections of this Parliament.

Take for example, the law relating to immovable property and the amendment that the Government accepted so far as sections 145 and 146 are concerned. There also certain changes were suggested and out of deference to the views of the Members of this House we accepted certain changes.

Then, in respect of defamation also, in spite of all that has been said by a number of hon. Members of the Opposition, I would point out to you in all humility that we have accepted more fundamental changes than the Government had bargained for, because Government desired that there was some evil which had to be taken into account and uprooted; and even though my hon. friend Shri More contended that a certain protection was afforded to the Ministers, I would submit to him again—this is almost a repetition—that the changes have not been made for the dignity or the prestige of the Ministers or officers at all...

Shri S. S. More: What else?

Shri Datar: ...but for the purpose of keeping the entire administration absolutely pure and absolutely above reproach.

In some cases, wherever there are guilty persons, either in the class of public servants or elsewhere, if the matter had been left to them, they might not go to a Court of law because they might fear that there would be a vindication in the other way—a vindication not of their character but the exposure of that character. It is for this purpose—I would again repeat—that the Government of India desired that they should have an opportunity of initiating prosecutions in this respect. The point I am making is that even in this case, we accepted an amendment at the last moment which has taken from the purview of this section oral defamation. That is what the House has to understand. *(Interruption).*

Shri S. S. More: But not with regard to the Press...

Shri Datar: With due deference to my hon. friend, I am submitting that we have accepted very fundamental changes, though, left to ourselves, we would have liked, in the interest of the purity of administration, more stringent measures. Even so, so far as the Press is concerned, Government have no desire to put in any restrictions on the Press as such because, on the whole, it must be admitted that the Indian Press has been working in a very creditable and honourable way. Government have no desire to put any restrictions except where in the interest of the purity of public administration, it is necessary that certain scurrilous writings ought to be checked. It is only for that purpose that we have made certain provisions in the law with your consent, and there has been no desire to affect what is rightly called the Fourth Estate of the land.

Now, I would pass on to other provisions, very briefly. The right of cross-examination has been allowed in the case of committal proceedings. Government pointed out on a number of times that it was to be a summary proceeding and all that was desired was a complete abolition of the committal proceedings, but out of deference, especially for the lawyer Members of this hon. House, this right has been given, along with all the implications which the hon. Members know and realise.

Pandit Thakur Das Bhargava (Gurgaon): It is true that the vested interests of the lawyers have been protected!

Shri Datar: In other cases also, the warrant procedure has been simplified. Certain points have been accepted by us and even so far as the offences which are to be made compoundable are concerned, we had two views before us and a very happy *via media* was found as to whether offences which were of a private nature which also partook of a public nature could or could not be compounded. And there we accepted the view as a matter of compromise.

Lastly, so far as the question of perjury was concerned, Government were extremely anxious that perjury was to be uprooted. Government also were aware that perjury was, unfortunately, being carried on or exercised on a very large scale without proper restrictions or penalties being made thereof. That is the position which has to be checked because wherever we go, we find that it has almost become—what I can say, a farce—when a man comes into the witness-box and says something which is entirely false. I know there are very conscientious witnesses, but, on the whole, the degree of perjury that we find is very large and has to be provided against. That was the reason why in the original provision we had made a summary procedure, but out of regard to the views of the Joint Committee we have given up that procedure altogether, and another method, which is more in consonance with a natural procedure justice, according to most of the Members of this House, has been included. There also, I am happy to point out, we have accepted the amendment of one of the loudest critics of this House so far as this measure is concerned—I mean the hon. Pandit Thakur Das Bhargava. In spite of all that he said against us, I may here pay my tribute to the great interest and zeal that he displayed in this matter, and, therefore, when such an objection came forth, we accepted that amendment. Similarly, regarding bailable and non-bailable offences, certain changes have been accepted. Thus you will find that in the light of what we have done almost from the beginning, that our claim that the consideration of this Bill has always been treated on a non-party basis is more than fully justified.

Now, it was also contended that the revision of the Criminal Procedure Code might not be of full and effective use. We are aware that it would be useful to a certain extent for meeting the ends that we have in view. But as I pointed out on a number of occasions, Government are going to tackle this problem from all the different ends and, therefore, we are aware that the system of investigation requires certain changes. Very violent things, and absolutely unjustifiable things, were said against the magistracy and against others, but we are taking steps, and the State Governments also are very active in taking steps, to see that the administration of justice, as also the other relevant matters, are carried along what can be stated to be human lines. Take, for example, the question of prison reform. The hon. Member, Shri More, and I come from a State where a very large measure of prison reform has already been brought into operation. I have seen a number of prisons and there a complaint has been made that the conditions are more comfortable than what they ought to be for prisoners. Apart from that contention...

Shri S. S. More: Are they more comfortable than on the Treasury Benches?

Shri Altekar (North Satara): The Treasury Benches are not offenders.

Shri Bogawat (Ahmednagar South): He compares the Treasury Benches with the accused. That is the nobility of the Member!

Shri Datar: The Bombay Government, as also other Governments, have taken up a number of measures for effecting a greater improvement on the human side of these various matters. We are also dealing with the question of juvenile delinquency and there are a number of matters on which Government are absolutely keen. The

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reform of the police is also undertaken and we do desire that there should be a proper investigation, a speedy investigation, and that the whole matter is done in such a way that there will be no scope for any legitimate complaint. Therefore, it would be wrong to say that the Government of India only desired the revision of the Criminal Procedure Code and left other defects as they were. The Government of India are anxious to take all proper steps so far as this question is concerned.

The last question in this connection is one which is extremely important, which is called moral reformation by the Deputy Leader of the Communist Party. But all that I can do is to make a reference to your very graceful speech this morning when you looked at it from different points of view. You have a long professional career to your credit, but in addition to this, you have also the opportunity of being in the Chair for a large portion of the day and looking at all these points from, what I can say, a detached and judicial point of view. Your speech, therefore, has heartened all those who are desirous of having a complete change, and the complete change is to look at the question of criminal justice not from the point of view of lawyers as a class. I am not prepared to say that the lawyers as a class are a vested interest; I am not prepared to go to that extent. But I do desire that the lawyers, though, after all, are lawyers, are citizens first and citizens last; they are lawyers only so far as their profession is concerned. So far as the traditions of the lawyers' profession are concerned, they are very high. I am quite confident that, though in the course of arguments put forward by some lawyer Members, the lawyer view was prominent, when the whole Act is looked at from the point of view of the interest of the citizen and justice, the Government will have the fullest co-operation of all the lawyers, because the lawyers are a highly intellectual class. I am also confident that they are a patriotic class and, therefore, they would do everything in their power to help us. I am very glad that you made a reference to the purposes that the Government have in view. You also looked at the whole problem from the larger interests of justice and the public, and therefore, whatever you have stated in the course of your speech is naturally the policy so far as the Government of India are concerned.

Without taking any further time, I am happy to say that though the debate was very long on certain clauses, I am confident that it was pleasant, was co-operative and in spite of 70 hours having been spent, these 70 hours were well spent, because, as some Members stated, this Code of Criminal Procedure is, in some respects, more important than even the Constitution. It is true it embraces the lives of a number of persons and it ultimately affects the interests of law and order so far as the conditions of India are concerned. Therefore, it was very good that we spent so much time and we have produced a result of which I am fully proud and for which the whole House will give the credit to the present Government of India.

Pandit Thakur Das Bhargava: Sir, I have listened with great pleasure to your speech which was such a balanced speech and I am thankful to you for the reference you made about me as a member of the Congress Party. Your contribution, as I said on a previous occasion, even from the Chair will be regarded as a memorable thing, I should say, so far as the interests of the accused are concerned. Because, after all, in a good Criminal Procedure Code the interest of the accused should be justly safeguarded.

From the trend of your speech I understand that your idea is that the complainant should be equally protected and that is perfectly sound. I agree with that proposition that so far as crimes are concerned, the crime ought to be punished and those who are affected by those crimes—their interests—also should be safeguarded. At the same time, I do not agree with my hon. friend Shri Mukerjee that Dr. Katju, after the Bill is passed, will find, while he is sleeping, some spectres before him and he will feel repentant for what he has done. It is entirely wrong.

Shri V. G. Deshpande (Guna): He does not repent.

Pandit K. C. Sharma: He is too tough for it.

Pandit Thakur Das Bhargava: When I made my speech at the consideration stage, I submit that I am perfectly certain that the purest of motives inspired him and I submitted that there is no question of any person in this House thinking that he is motivated by any sort of prejudice against the accused because he wanted speed and justice, both these things, as he has mentioned in his Statement of Objects and Reasons.

You have been pleased to say that in the conduct of the legislation he has shown sweetness and good humour which is his usual characteristic. I join with you in the tribute that you have given. At the same time, I am certain in my mind that when the Bill is passed, he will feel very happy, because, after all, according to him, the Bill is very good. While praising him for all this, I cannot, at the same time, resist the temptation of saying that his good nature has not resulted in good to the accused. His responsiveness was such that he accepted amendments from all sides of the House and I must thank Shri Venkataraman for his valuable help in this matter. I must thank Shri Sadhan Chandra Gupta who did so much in this House and he was successful in getting an amendment accepted for which I had absolutely no hope. I am thankful to Shri Chatterjee for getting another amendment accepted; it was a good one. In fact, it is invidious for me to mention the names of those gentlemen, who tried their best, in the interests of justice, to do all that they can. I cannot at this stage, at the same time, refrain from paying my tribute to Shri Raghubar Dayal Misra who put in such an amount of industry so far as this Bill is concerned. The manner in which the hon. Home Minister addressed himself to this Bill was remarkable. At the consideration stage, he was pleased to say that the whole field including whatever amendment was there will be considered by the Select Committee. think that also expressed the kind man in hin. He had agreed to all this. It is unfortunate that the Select Committee, in their wisdom, did not consider all these amendments. It is very unfortunate that the Select Committee put in certain things against the wish of the hon. Home Minister which we had to amend here in this House. We did succeed in amending some of them but we did not succeed in amending some others. These things do even now disfigure this Bill, I am sorry to say.

The responsiveness of the hon. Home Minister, which I have commended, is really responsible for much of our difficulties in this Bill. His original idea was that there should be no commitment proceedings and I was very happy when I saw the Bill. This was a reform of the first magnitude and had it been carried, it would have saved the country a crore of rupees and perhaps much more, and speed would have been obtained. My idea is that as soon as a crime is committed, within fifteen days the accused must be in the dock before the Sessions Judge. I remember an occasion in Lahore where a Muslim killed a Hindu out of fanaticism. Mr Ogilvie was the Deputy Commissioner and in seven days' time the case was committed and tried and the man was sentenced and hanged. I want justice of that kind in this country. If we really mean business, we ought to see that crimes are punished with speed. The hon. Minister's mind was working in that direction, when he introduced this Bill. Hon. Members will

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be pleased to see from the Statement of Objects and Reasons that in fact he wanted to see that there is no commitment stage. But, the Select Committee, in their wisdom, introduced this commitment stage in a truncated form and now, in spite of the fact that Shri Datar was kind enough to give us some amendments and the Home Minister was kind enough to allow the right of cross-examination etc., we have not been able to do what we should have done. I would have been most happy if this commitment proceeding had not been there. If you want to have this for a particular purpose and the purpose being this that the innocent person is not sent up, then, have the right sort of commitment proceedings. Previously, we had this right sort of commitment but by the rulings of the High Courts the powers of the committing courts were curtailed to a certain extent. But, now they are practically taken away. At present the words are, 'if there are sufficient grounds for commitment' and now the words used are 'if the whole thing is groundless'. It means that there will be no discharges in future and almost every case will have to be commitited. Previously the committing court could hear the defence and also call witnesses and he had powers under section 540. Now, all these have been taken away and no defence witness will be examined, no extra witness can be called. The entire justification for commitment proceedings has been taken away and yet commitment proceedings exist.

I am rather afraid that we have been doing very inconsistent things in this House. We have not allowed the amendment of section 342. Section 342 of the amended Bill has been replaced because the hon. Minister was pleased to accept an amendment after great discussion in this House, that the accused should be examined only to explain any circumstance appearing in evidence against him while in clause 31 we have accepted an amendment that at the commitment stage the accused can be cross-examined. These are two inconsistent things. In one section in the Code you have got the provision that no question can be put to any accused unless it is for the purpose of explaining some circumstances in the evidence against him, whereas in clause 31 you have accepted that in the commitment stage the person can be cross-examined. Then again in a warrant case there can be no circumstance in evidence against him at the stage you propose to examine him; not a witness appears before he is examined or cross-examined. I fail to see how these provisions can be reconciled or worked. They cannot be reconciled. My humble submission is that this sort of discrepancy is a wrong which we have done and we must remedy it.

Then again, you will be pleased to see that that is not all. There are other contradictions. We have stated in section 162 that only for one single purpose you can utilise the statements and that is when the prosecution witness comes. They will be utilised for the purpose of cross-examination by the accused. At the same time in the warrant case what do we do? The Magistrate is not supposed to look at the diaries unless he calls for them under section 172 to his aid. Yet, he will base his entire charge upon these statements under section 162. The charge will be framed not on the basis of evidence, but on the basis of these statements. That is entirely wrong. In one place we say it shall not be used for any other purpose and in the other place we give the Magistrate the right to frame the charges on the basis of these statements. This is again a contradiction.

As Mr. Misra was pleased to point out, under section 487 no Court can take cognizance of a crime which has been committed and which is covered by the provisions of section 195 and yet under section 174 or 176, we have made the provision that the Court will be able to fine a person Rs. 100 if he does not come in obedience to summons or leaves upon he is allowed to leave that Court. This is again a contradiction.

The general rule is that no Court shall take cognisance of a crime which is committed in relation to itself. Without even referring to section 487, you have got this provision that the Court can take cognisance and fine the defaulter. These are the contradictions.

Apart from that, Sir, I feel that in certain respects the Code is an improvement on the present provisions and I have nothing but praise and congratulations for the hon. the Home Minister for bringing about those amendments. For instance, now, the assessors go away. Transportation has been done away with and many of the sections which deal with these two—omission of assessors as well as transportation—have been amended.

Then comes the question of copies. This, I think, so far as the hon. the Home Minister is concerned, is a very great improvement. Previously persons did not get copies. I am sorry that the amendment relating to the 7 days or 10 days period elapsing between the giving of copies and the appearing of the accused before the Court or before the trial begins has not been accepted. I understand this is a great wrong. If this had been accepted, then speed would have been attained. I know giving of copies is a very difficult matter. Supposing there are 50 accused in a riot case. All the 50 will have to be given copies.

[SHRI BARMAN *in the Chair*]

Shri Tek Chand: Cyclostyle them.

Pandit Thakur Das Bhargava: It is easier to say than to do. Something like six lakhs of cases are brought in courts. At the rate of Rs. 15 per copy, it means rupees one crore. I consider 50 per cent. of the persons will be persons who will not be defended in Courts, who will be absolutely illiterate. Are you going to give counsels to them free? Are you going to give them copies? What will they do with it? If a person makes an application, give him a copy. If all the persons are literate I can understand. I think it will be useless to entail this expenditure. The advantage will not be commensurate with the trouble taken.

Shri S. S. More: There will be larger income from fines.

Pandit Thakur Das Bhargava: Considering all the advantages, the change in sections 145 and 146 is a salutary one. But I am afraid that the change from summons cases to warrant cases is not a healthy one. I want that the traditions of this country should be kept in tact. People do not want to be convicted. But in a summons case, the first question asked is: "Show cause why you should not be convicted." Now that so many warrant cases have been turned into summons cases, I am afraid that people will get more conviction minded. The Courts will convict them and the old tradition will, to a certain extent, be tampered with. I do not like that these cases should be turned into summons cases. I would rather like all cases to be treated in the same way. I do not like that persons who are convicted for serious offences should be given much more facilities, out of proportion to those who are put up in small cases. The procedure must be fair to all and based upon established principles.

Then again, this change under section 117 that all the cases will be tried as summons cases is very retrograde and it should not have been accepted by this House. In regard to some other amendment, for instance perjury, I am sorry the change that has been made is really very retrograde. I should think that instead of arresting further progress of perjury, it may to a certain extent, just narrow down the scope of the powers of the court. In every case, the first thing that the Magistrate would have tc certify is the eradication of the evils of perjury and fabrication of false evidence; and in the interest of justice, a prosecution is to be launched against the perjurer.

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We have got to repeat this unnecessary prelude for the eradication of evils of perjury and fabrication of false evidence and interest of justice and prove it by reasons. This reads like *Bhagwat Gita Shloka*:

परित्राणाय साधूनाम विनाशाय च दुष्कृताम् ।
धर्मं संस्थापनार्थाय सम्भवामि युगे युगे ।

Are we enacting a statute or writing *Alaf Laila*? This is purely pedantic pedagogy. I do not understand. The provision is that the Court shall launch prosecution "for the eradication of the evils of perjury". It means that a person will not be sent to jail for his giving false evidence and committing a crime but for the purpose of deferring others in future. He will only be punished so that others may not commit any offences. I have never seen in any statute words like these and I think these words will produce complications.

Now, the right of appeal of a person proceeded against has been taken away. That is a very great wrong. In regard to defamation affair, I am bound to think that the hon. Minister has been kind enough to take away the slander aspect of it.

Mr. Chairman: I may point out that we have to close this discussion at 2-40 P.M. and the Home Minister wants 20 minutes. There are many other Members who are very eager to speak. After all, the Bill is passed; the hon. Member may just touch his points.

Pandit Thakur Das Bhargava: I am also very anxious that others should speak. I do not want to take more time, but, with your permission, Sir, I will take another five minutes.

I was submitting about defamation. I thank the hon. Minister for making that change, but, at the same time I do not agree that the approach was right. I should think, that if large number of persons bring a complaint to the hon. Home Minister against any person about taking bribes etc., the right course is to enquire into the matter and punish the culprit instead of making the complainants to go to the dock and making the accused a complaint. It is topsy turvy. At the same time, with regard to Ministers etc., I do think that it will be very effective and it should produce some results because the idea of the Home Minister is to drive those persons who do not want to go to Court, to the Court and vindicate their character. So far as the Ministers are concerned, I think this is very effective and a good change. But, I do not know whether in respect of public servants this will prove of great use It may, on the contrary, prove detrimental and stifle criticism and complaint and produce terror in the minds of complainants.

Then, Sir, in regard to section 350 I am not satisfied. I must say that in regard to section 350 a wrong has been done to the accused. In regard to warrant cases, I am glad that the Home Minister, in spite of himself, because he is so responsive, accepted the amendment of Shri Sadhan Gupta which restored the hated section 257. He hated section 257 and he has restored it now. In regard to further cross-examination, though he has taken away the right of the accused, he accepted the amendment of Shri Chatterjee allowing the deferring of the cross-examination of defence witnesses as well as further recall under 256. So, all the three occasions stand secured which he himself said should not be secured. Though according to me only two occasions should have been secured, he has been kind enough to give all the three because he is quite responsive and has no sheet anchor of his own.

Now, in regard to warrant cases on police reports, the charge will be framed and he has taken away sections 253, 254 and 256. In a warrant case, now there will be no discharge except when it is found that the entire thing is wrong from the very start. Apart from that there is no discharge in other cases. The entire prosecution evidence and the defence evidence will have to be gone into in every case. This will never make for speed. This will worsen the matter in warrant cases. As I have said before, when you accept certain basic principles of the criminal law of England—I should say, British jurisprudence—you must accept the fundamental principles underlying them. Now, so far as charge is concerned, you have made it very easy. On the basis of police statement a person is charged and no discharge is possible and evidence must be gone into. This will not make for speed. My submission is that the hon. Minister's motives are perfectly right. He wants to attain speed. I am afraid there are certain provisions here which will not make for speed.

So far as justice is concerned, I think the hon. Minister has been desirous of giving the accused all the necessary rights. But he has placed too many powers in the hands of the Courts and taken away some of the powers of the accused. This is not right. At the same time, I do say that when the separation of executive and judiciary comes, we will have Magistrates who will care more for justice than for anything else. That day is not far away. When I think of the entire circumstances of the case I certainly congratulate our Government for having the best of motives for doing the right thing. When I consider that—as the Deputy-Speaker himself pointed out—it is not treated as a party question, I am very glad and I am thankful to the Deputy Minister and the Deputy-Speaker for having said kind words about me. It is not a party question. The whole House must realise that, while we were framing the Constitution, while we were discussing here in this House certain measures which affected the liberty of the people the Congress members have been not less—I should say—conscious of their duties and they have done their very best to see that the liberties of the people are not put into jeopardy and they are safeguarded.

Now, Sir, with your permission, I must enter a protest against the manner in which some lawyers of this House have been treated. I do not care for myself; I have got the skin of a rhinoceros and any person can say anything about me; I do not care. But, it is entirely wrong to say that the lawyers have approached this question from the point of view of vested interests. It is entirely wrong. We have looked at the matter from the point of pure reason and the lawyer in us has not dominated with a view to see that the accused gets much more than what he is entitled to. After all, a country's contested laws are judged by the manner in which it deals with its accused persons and miscreants. We gave even Godse full benefit of a legal trial and I may tell the House that the jail rules were changed for giving full facilities and amenities to Shri Godse the murderer of Mahatma Gandhi. This is the way in which democracy works and this is the way in which the Government of India works. Therefore, it is idle to attribute to us motives by which we were never actuated. We discharged our duties in a just and judicious manner.

I hope, Sir, when the Law Commission comes, all these defects which we have yet got will be removed. There are a good many defects. I have not been able to deal with all of them in the short time available to me. After all, when there is a clear picture about what we want, as to how we can put our house in order, everything will be clear. At one stage, the hon. Minister was pleased to point out that this is not the time when we can go into all these matters in a procedural law. He said that we cannot go into all those matters about lawyers, police etc. But, I must complain about one thing which I cannot resist. So far as the police is concerned we all now respect the police because it is our own police and our

[Pandit Thakur Das Bhargava]

own Magistrates. We do not now go against them. At the same time, the Home Minister did not have a word to say against the police. In all his speeches the hon. Home Minister did not have a single word of condemnation against the police. On the contrary when I pressed sections 172 and 161, which went into the very root of the matter, which are the princely sections so far as investigation sections of the Criminal Procedure Code are concerned, I am extremely sorry that my views and suggestions which I made were not considered by the Joint Committee and no amendment was allowed to be put here as they were ruled out. Those two provisions, if accepted, would have gone to the root of the matter and at the same time paved the way for future reforms. This can only be brought about if we have confidence in the police. If we have no confidence, I maintain that all these things about procedure shall remain in the Code and we will not be able to bring about any reforms. If we want real progress, then the police, lawyers, and magistracy have to be reformed fully. Unless that is done I feel no good reforms can be brought about.

In the end I thank the hon. Minister for having put up with a bad man like me. I had absolutely nothing personal against him when I criticised his Bill at the consideration stage. But, lawyers are very apt to be misunderstood and I am one of those lawyers who can be misunderstood. I do not care if others misunderstand me, but I can tell them from the bottom of my heart that I have nothing against the hon. Home Minister in my mind and I have as great a respect for him as any other Member can have in this House and he need not entertain any idea of frightfulness in respect of me.

Shri N. C. Chatterjee: Sir, I think we should not convert the third reading into a "mutual admiration" stage..

Shri S. S. More: Why not? We have already done it.

Shri N. C. Chatterjee: ...or exchange boquets or distribute them all round.

I wish we had approached this difficult problem with an architect's mind and we had really tackled it on a higher level and in a more comprehensive manner. I have been pleading that the Commission should have been appointed before we had started amending this Code and that Commission should have not only taken upon itself the duty of suggesting improvements in this Code and other cognate statutes, but also should have formulated, after hearing all interested parties, proposals as to how to improve the investigating machinery; how to purify both the police and the magistracy. Sir, even at this stage of the third reading this Parliament will stultify itself if it thinks it has done the right thing by the country in merely enacting this piece of legislation. The more real reason for all the scandals and delay in law is the inefficiency and dilatoriness of our machine and that machine must be improved; that system radically altered; otherwise no amount of codification or recodification will bring about the desired change.

I am reading, Sir, from a note on the system of criminal administration and criminal justice in India, which the Home Ministry has circulated to the State Governments in the year 1953. That note starts with this very important statement:

> "The investigation of crimes by the police does not appear to be satisfactory. It is often highly defective and inefficient besides being dilatory, with the result that when the matter comes before a court of law, the irregularities in investigation are exploited on behalf of the accused, and in a very large percentage of cases, decisions have to be given by the courts on technical grounds alone, resulting in unwarranted acquittals or light punishments to the offenders."

I do admit that a wrong acquittal is as much a source of demoralisation as a wrong or illegal conviction, but unless our investigating machinery is thoroughly remodelled, unless we have a proper Scotland Yard, and unless they have been given scientific instruction how to detect crimes, this objective will not at all be realised.

Mr. Chairman: Just a request. I hope you will finish by 2-10 P.M.

Shri N. C. Chatterjee: Yes, Sir. I will finish. I am happy that this Bill, as you are passing today in the House. is a distinct improvement on the measure that was introduced and I should point out that posterity, yet unborn, would have pointed its unerring finger to Parliament and condemned it if we had not brought about these changes which we have secured through the passage of the Bill. We have discussed and taken 70 hours, but we have done altogether a good job of it. What have we done? Just remember the points that we have scored in the process of these discussions. Firstly, we have secured the right of recall and deferred cross-examination. I am happy that the hon. Home Minister accepted my amendment, and although as my friend, Pandit Thakur Das Bhargava has pointed out, it is not a statutory right for the accused, it is still a distinct gain. Secondly, we have restored section 162 of the Criminal Procedure Code and you know that it is the bulwark of the defence and it was a very very unsatisfactory, if not amazing, provision which wanted to delete section 162; that has come back with some modification which I do not like, but certainly the restoration of section 162 of the Criminal Procedure Code, to a large extent, would mitigate the dangers which the defence would have faced otherwise. Thirdly, we have scored one great victory that the accused now can cross-examine at the committal stage and that is a distinct gain. Fourthly, we have got from the hon. Minister, and the House has passed it, that it is not a question of mere recording the statement but evidence being taken so that even at that stage questions can be put and cross-examination can be effected. In the Bill, as it emerged from the Select Committee, that was deleted and we have cut it down. The fifth point, which is important, is that even now, in accepting our suggestion, the Minister has been good enough to accept our practically passionate plea that those persons, whose statements have been recorded under section 164, must be produced before the Magistrate. Even at that stage, the accused can cross-examine them. Lastly, section 342 has been restored to its pristine purity, and I am very glad that section 342 has come back. A dangerous innovation had been made—I do not know whose brain wave it was—that the Magistrate could cross-examine the accused. That was not limited to the purpose which is the only purpose for which such examination should be held—for the purpose of enabling the poor accused in the dock to explain circumstances which appear to be unfavourable and from which the Magistrate can possibly make certain conclusions detrimental to his interests. It was not being confined to that, and unfettered discretion was being given under that cross-examination, and that might finish the accused. We pointed out that it was repugnant to the Constitution, article 20, sub-clause (3), and I am happy that that has been restored.

At the same time, as against these white spots, there are still black spots, and some of them are still very very black indeed. The worst, of course, is the defamation clause. We have made our point and we still maintain that the Republic of India is, to a large extent, tarnishing its reputation by bringing in a special privileged category, both the Ministers and the public servants, and after what has happened, I am afraid the Press is justified in thinking that Dr. Katju's real object was to enact some kind of Press Act and not really enact for punishment for defamation. He has excluded oral defamation, that is,

[Shri N. C. Chatterjee]

slander has gone, and Pandit Thakur Das Bhargava was referring to me. Take for instance Shri Gopalan speaking in Ram Lila grounds and it would have been a hundred times more dangerous if extracts on some slips of paper were circulated, sometimes against some hon. Ministers or still more honourable public servants. This omission of slander would, to a large extent, help in alleviating the apprehensions on the part of the Press, as it was meant to strike at the opposition Press. Secondly, I do not like the perjury clause as it has emerged. We have made our suggestion and we thought that it was not necessary to have this special kind of thing, with a high sounding nomenclature, with prefatory remark. Thirdly, we are opposed to duality of committal proceedings. We made our point and repeated it. The main thing I am still pressing is that the real gain would be not in having these section 30 Magistrates everywhere in India, which is a retrograde step, but to have a real separation of the judiciary and the executive. You can never have honest justice and impartial justice otherwise. It is not so much a question whether the officers are corrupt in their dealings or not; you must convince people that you are doing justice and that is the cardinal principle. In a case, which was tried by Lord Hewitt in England, a local attorney was engaged to advise the Magistrate. The magistracy is not always composed of lawyers and the local attorney was made a Clerk of the Court to advise the Magistrate. In a particular running trial action, there was a civil claim for damage and at the same time there was a criminal case prosecution started. What happened now? Unknown to that Clerk of the Court, the other partner of the firm to which that attorney belonged, had been advising the other side in the civil matter and therefore the Lord Chief Justice said "I am issuing a writ of *certiorari*". The cardinal principle of justice is really to do justice and behave in such a way that even the Clerk of the Court shall not have any association with a firm, one partner of which is advising the other side in a contract matter. That principle should be upheld and that can only be done if the Congress Ministers today really translated into practice the cherished principles for which the Congress has stood for so many years and been preaching for so many years from the days of Manomohan Ghosh and Lal Mohan Ghosh right up to Deshbandu Chittaranjan Das. We have been shouting for it and big volumes have been published on that. Unfortunately when in power, these principles are being cast to the winds, and I hope if the hon. Minister had deleted the clause with regard to defamation, that spot, which has been looked upon as a spot of standing disgrace to the Republic would have been removed. I hope the Law Commission, when they will scrutinise it, will also turn their attention to these provisions to which objection has been taken by Pandit Bhargava, by me and also by other Members, and radically improve it to the satisfaction of all concerned.

Mr. Chairman: Shri R. D. Misra may please finish his speech within ten minutes, that is, by 2-20 P.M.

श्री आर० डी० मिश्र (जिला बुलन्दशहर): मैं अपने होम मिनिस्टर साहब को मुबारकबाद देता हूं कि उन्होंने जो मेहनत इस बिल के तैयार करने में की वह बहुत ज्यादा है। शुरू में उन्होंने अपनी नियत दिखलाई, अपने आब्जेक्टस दिखलाये कि हम भारत में एफिशिएन्ट और अच्छा क्रिमिनल ला का एडमिनिस्ट्रेशन चाहते हैं ताकि लोगों को अच्छी तरह से न्याय मिल सके, बेगुनाह सजा न पावे और गुनहगार बच कर न जाये। इस ध्येय को ले कर उन्होंने काम किया। बड़ा सुन्दर ध्येय था। उन के साथ मेरी बड़ी हमदर्दी है और मैं उन के इस ध्येय के साथ पूरी तौर पर मुत्तफिक था कि यह जरूर होना चाहिये।

लेकिन जितनी मेहनत उन्होंने की उतनी मेहनत के बाद जो बिल हम पास कर रहे हैं वह बिल ऐसा नहीं हैं कि जिस के लिये हम उन को मुबारकबाद दे सकें। इस की वजह यह हैं कि हम ने इस बिल में कोई खास बात ऐसी नहीं पैदा कर दी हैं कि जिस से हम यह कह दें कि अब हिन्दुस्तान में क्रिमिनल जस्टिस का ऐडमिनिस्ट्रेशन जो हैं वह कुछ सादा हो जाने वाला हैं या कम खर्च का हो जाने वाला हैं। अभी हमारे डिप्टी मिनिस्टर साहब ने कहा कि उन्होंने बहुत से वकील मेम्बरों की बातें मान लीं और इस तरह से उन का फायदा हो गया हैं। हां, इस बिल में बहुत सी फायदे की बातें हो गई हैं। कुछ बातें वकीलों के माफिक और फायदे की हैं, कुछ पुलिस के माफिक हैं, कुछ जजों और मजिस्ट्रेटों के माफिक हैं और कुछ जरायम पेशों के माफिक हैं। लेकिन जनता के माफिक कोई दफा इस में नहीं हैं। आप कहेंगे क्यों ? आप उसे सुनिये। जजों के माफिक तो यह हो गया कि आज तक सेशन जज दौरा नहीं कर सकते थे, गांवों की हवा नहीं खा सकते थे, लेकिन अब यह हो गया हैं कि जैसे पहले मजिस्ट्रेट मजा लिया करते थे वैसे जजों को भी खुली छूट मिलेगी, सरकार का पैसा हो और सरकार की गाड़ी हो, गांव के बाग में जज साहब कचहरी कर रहे हों और आनन्द लेते हों। चलिये सेशन जजों को भी यह हक मिल गया। हम ने बड़ी मुश्किल से जब हमारे डा० काटजू यू० पी० में मिनिस्टर आफ जस्टिस थे तब उन से कह कर कि मजिस्ट्रेट लोग बड़ा परेशान करते हैं, वकील परेशान, मुद्दई मुद्दालय परेशान, किसी को आराम नहीं, इस चीज को बन्द कराया था।

डा० काटजू : आप नामुकम्मल बात कह रहे हैं इस का मुझे अफसोस हैं। मुल्जिम और इस्तगासा दोनों की सलाह और इजाजत से इस को बन्द किया गया था।

श्री आर० डी० मिश्र : आप जो सलाह की बात कर रहे हैं वह भी मैं आप के सामने रक्खूंगा। मैं यह बता रहा हूं कि जजों को क्या हक मिल गया। आप ने कहा कि मुल्जिम और मुद्दालय की सलाह से किया गया। मुल्जिम की मरजी को पूछता कौन हैं ? वकालत करते करते मैं पुराना हो गया हूं, मैं जानता हूं कि क्या होता हैं। जज साहब ने कहा कि वकील साहब, गंगा जी के मेले पर चलने का इरादा हैं। वकील क्यों एतराज करेंगे ? अगर जज कहे कि हम गंगा नहायेंगे तो मैं क्यों एतराज करूंगा क्योंकि अगर जज दौरे पर जाता हैं तो मुझे दूना मेहनताना मिलेगा। जिस वकील को दूना मेहनताना मिलेगा वह अपने मोवक्किल से कहेगा कि तुम्हें थोड़ी परेशानी तो होगी लेकिन अगर जज नाराज हो गया तो सजा हो जायेगी अगर जज गंगा जी जाना चाहता हैं तो तुम क्यों रोड़े अटकाते हो ? अदालत को खुश करना पहला फर्ज हैं। अगर अदालत खफा हो गई तो फौरन सजा हो जायेगी, इस लिये कोई वकील हिम्मत नहीं कर सकता कि वह जज की मुखालफत करे अगर जज चाहता हैं कि मेरी अदालत किसी और मुकाम पर लगे या गांव में हो। जितने ऐयाशी पसन्द मजिस्ट्रेट मैं ने देखे हैं उन सब ने यह ऐयाशियां की हैं। मुझे उन से सख्त नफरत थी। ऐसे लोग अंगरेज भी थे और हिन्दुस्तानी भी थे। मैं तहीं कहता कि सब लोग ऐसे होंगे, लेकिन आप ने रास्ता खोल दिया हैं ऐसे लोगों के लिये कि वह ऐसा किया करें।

वकीलों को जो हक मिला वह क्या मिला ? आज की तारीख तक हाई कोर्ट में मुल्जिमों की तरफ से अपीलें हुआ करती थीं। लेकिन अब ऐक्विटल के खिलाफ अपीलें हाई कोर्टों के पास जायेंगी। वकीलों को महनताना मिलेगा। जजों और सेशन जजों के जो मुफीस्सल कोर्टों के वकील थे उन को कुछ मिला नहीं। यह बात हाई कोर्ट के वकीलों के माफिक हो गई कि तमाम एप्लिकेशन्स अब हाई कोर्ट जायेंगी और इस से वकीलों का फायदा होगा।

[श्री आर० डी० मिश्र]

जरायम पेशा वालों को क्या फायदा मिला ? आज की तारीख तक पुलिस के कागजात मुल्जिम को नहीं मिलते थे। लेकिन अब तमाम कागजात की नकल कर के पुलिस के थानेदार साहब और प्रासिक्यूशन इन्स्पेक्टर साहब मुलजिमान को देंगे कि यह देखिये, जनाब वाला यह मुकद्दमा आप के ख़िलाफ हैं। डाक्टर का सर्टीफिकेट पहुंचेगा कि १×१/२ व २×१/४ चोट लग गई थी, चाहे मुल्जिम को जरूरत हो या न हो। डाक्टर की पोस्टमार्टन रिपोर्ट साथ हैं। सारा कूड़ा करकट, जिस का ७५ फीसदी वकील के लिये बिल्कुल बेकार होगा, मुफ़्त मुल्जिमों के घर पहुंचाया जायेगा। फायदा इस का किस को पहुंचेगा ? जो बड़े बड़े डाकू कातिल, जानी होंगे, जिन के ट्रायल सेशन कोर्ट में होंगे और जो वारंट केस से ट्राई होंगे। लेकिन गरीब तांगे वाले, इक्के वाले, मुसीबत में ही पड़े रहेंगे। पुलिस वाले को नहीं बिठाला, गाड़ी में उस के जगह नहीं हैं। कहा तुम नहीं जानते, लाल पगड़ी मेरे पास हैं ? तुम्हारा चालान। किस बात का चालान ? सवारी ज्यादा थी। सवारी तो कम थीं, लेकिन चालान। कहीं मार पीट हो जाय गरीब पिटने वालों का कोई खयाल नहीं। छोटे छोटे जुर्मों में झूठे चालान होते हैं उनका कोई खयाल नहीं। पैसे लेने के लिये गरीब आदमियों के झूठे चालान होते हैं। कोई इलाका नहीं हैं जहां यह रिश्वतें न बंधी हों, अड्डे अड्डे पर बंधी हैं, लेकिन बेचारे गरीब आदमियों की कोई सुनवाई नहीं, उन के लिये कोई रास्ता नहीं। उन्होंने कहा कि झूठा चालान कर दिया, तो सरसरी में मुकदमा होगा। क्या होगा ? न फैसला लिखा जाएगा, न गवाहों के बयान लिखे जायेंगे, कुछ नहीं होगा। मजिस्ट्रेट साहब बैठे होंगे, उन की अदालत में कोई चीज नोट नहीं हुई, आखीर में लिख दिया मुल्जिम का नाम, बाप का नाम, फलां मुहल्ले का रहने वाला। १० रु० जुर्माना, १५ रु० जुर्माना, २० रु० जुर्माना। छोटे छोटे जुर्मों के चालान झूठे करके जो गरीब आदमियों पर जुल्म होते हैं, उन से जनता में एक रोष की भावना उत्पन्न होती हैं उनकी कोई सुनवाई नहीं होती और कहीं न्याय नहीं मिलता हैं।

आप कहेंगे कि पुलिस को क्या अख्त्यारात मिले ? उस को भी बड़े अख्त्यारात मिल गये। अब उस को ज्यादा परेशानी नहीं। अब थानेदार साहब जो गवाह का बयान लिख लिया करेंगे, वह अदालत में इस्तेमाल होगा। अब तक यह था कि तमाम अदालतें उस को झूठा मानती थीं। आप की दफा १६२ उस को झूठा मानती हैं, एविडेन्स एक्ट की दफा २५ और २६ उस को झूठा मानती हैं। लेकिन अब यह हक पैदा हो गया कि अगर पुलिस ने कोई गवाह ऐसा पेश कर दिया जिस का बयान पुलिस ने सही और ठीक नहीं लिखा हैं और वह अदालत में आ कर सच्चा बयान देता हैं तो दरोगा जी कह सकते हैं कि यह गवाह झूठ बोलता हैं। डायरी में जो मैं ने लिखा हैं वह सही हैं। वकील कहेगा कि तुम ने थानेदार साहब को यह बयान क्यों नहीं दिया था ? थानेदार साहब गवाही में आयेंगे और कहेंगे कि नहीं साहब, उस ने मेरे सामने यह बयान दिया था। तो अदालत के सामने यह सवाल आयेगा कि थानेदार झूठा हैं या गवाह झूठा हैं। ७५ फीसदी गवाह ही झूठा ठहराया जायेगा और फिर उस के खिलाफ परजरी के केस चलने लगेगा। कोई शरीफ आदमी यह हिम्मत नहीं करेगा कि किसी अदालत में सबूत की तरफ से गवाही देने के लिये आये। अगर वह ईमानदारी से गवाही देना चाहता हैं तो भी सोचेगा कि पता नहीं जज साहब का दिमाग किधर घूम जाय और लिख दें कि यह आदमी परजरर हैं। मेरे सामने एक रूलिंग हैं जो कि सुप्रीम कोर्ट की रिपोर्ट सन् १९५२ के पेज ६४ पर छपी हैं। एक मुकदमा हैं जिस में प्रनीन्द्र कौर के हस्बैन्ड के मारे जाने का किस्सा हैं। उस के हस्बैन्ड को मारा गया। उस को पोटैशियम

साइनाइड दिया गया । उस ने खुद खाया हो या दिया गया हो, लेकिन उस की लाश को एक ट्रंक में भर कर एक कुंएं में जा डाला । एक महीने बाद एक लाश निकली । निकलने के बाद पुलिस के थानेदार आये, डाक्टर को दिखाया, उस की देख भाल के बाद उन्होंने कहा कि पता नहीं लगा कि किस की लाश है । सिपाही ने बताया कि साहब, यह लाश जसपाल सिंह की है जो कि फलां मुसम्मात का खाविन्द है ।

Mr. Chairman: Your time is up.

Shri R. D. Misra: One more minute is there.

उस मुसम्मात से तहकीकात की गई । मुसम्मात ने कंफेशन दिया कि हां साहब, इस तरीके से पोटैशियम साइनाइड खाया गया और मैं ने और एक दूसरा आदमी महेन्द्र पाल है, दोनों ने इस लाश को ट्रंक में भर कर यहां पहुंचाया । अब पुलिस क्या करे ? आप का कायदा यह है कि एक एक चीज साबित होनी चाहिये । मुसम्मात कहती है कि वह मरा और, उस की लाश को डिस्पोज आफ किया । अब इस का जोड़ मिलना चाहिये । कंफेशन पर सजा नहीं हो सकती । शहादत आई । सिपाही ने कहा कि फलां की लाश है, कुंएं तक कैसे पहुंची ? जीप में लाश ले जाई गई और इस तरीके से लाश वहां डाली गई । अदालत क्या करती है ? जज साहब ने मुसम्मात को कत्ल करने के जुर्म में ३०२ के मातहत काले पानी की सजा दी । उन्होंने कहा कि यह चीज साबित हो गई और इस से कत्ल साबित हो गया । हाई कोर्ट में जब अपील गई तो कह दिया गया कि जितने गवाह पुलिस ने पेश किये सब झूठे हैं । आप पढ़ कर देखिये कि किन शब्दों में लिखा है ।

Mr. Chairman: Order, order. There is no time please.

Shri R. D. Misra: I may refer to this page in the book. इस में लिखा है :

> "There is in our opinion considerable force in the contention that not only are foot constable Lachman Singh and Assistant Sub-Inspector Banta Singh testifying to the facts which are false to their knowledge but that the prosecution are responsible for deliberately introducing a false witness and for asking the other witnesses to support the story narrated by Lachman Singh that he identified the body to be that of Jaspal Singh on the 11th March and communicated the information to the father of the deceased on the following day."

इस बात को सुप्रीम कोर्ट ने भी माना कि न सिर्फ पुलिस के अफसरों ने ही झूठ बोला है बल्कि जो गवाह पेश किये गये हैं उन से भी झूठ बुलवाया गया है । तो आप देखिये सुप्रीम कोर्ट ने भी मान लिया कि गवाह झूठे हैं । कनफैशन को सैशन जज ने माना । हाई कोर्ट ने माना लेकिन उसने मुल्जिमा को ३०२ की बजाय २०१ में सजा दी । उन्होंने कनफैशन के हिस्से को माना । सुप्रीम कोर्ट ने कहा कि या तो सारे हिस्से को माना जाय या बिल्कुल ही न माना जाए और इसी बिना पर मुल्जिम को छोड़ दिया गया । तो जज जब कनफैशन को नहीं समझ सकते तो मामूली साधारण आदमी इसे किस तरह समझ सकते हैं । आप को एविडेंस एक्ट और क्रिमिनल प्रोसीजर कोड को सुधार कर अच्छा और सुन्दर बनाना चाहिये था । आप जैसा प्रोसीजर बनाना चाहते थे वह अब बनने जा रहा है । मैं आप को मुबारिकबाद देता हूं । ईश्वर करे आप इसके जरिये अपने ध्येय में कामयाब हों और परजरी वगैरह को दूर कर सकें । इतना कहते हुए मैं इस बिल को सपोर्ट करता हूं ।

Mr. Chairman: Let me first put to the House the consequential amendments moved yesterday. These are amendments 652 to clause 40, 653, 654, 655, 656, 657, 658 to clause 114.

[Mr. Chairman]

The question is:

In page 13, line 40, *after* "contained in" *insert* "any order made under".

The motion was adopted.

Mr. Chairman: The question is:

In page 31, line 6, *after* "Defamation" *insert* "(other than defamation by spoken words)".

The motion was adopted.

Mr. Chairman: The question is:

In page 31, line 16, *after* "public functions" *add* "when instituted upon a complaint made by the Public Prosecutor".

The motion was adopted.

Mr. Chairman: The question is:

In page 31, line 34 *after* "functions" *add* "when instituted upon a complaint made by the Public Prosecutor".

The motion was adopted.

Mr. Chairman: The question is:

In page 32, line 22, *after* "functions" *add* "when instituted upon a complaint made by the Public Prosecutor".

The motion was adopted.

Mr. Chairman: The question is:

In page 33, lines 5 and 6, *omit* "379, 381, 406, 407, 408".

The motion was adopted.

Mr. Chairman: The question is:

In page 33, *after* line 9, *insert*.

> "(cc) in the entries relating to sections 379, 381, 406, 407 and 408 in the 6th column, for the words 'Not compoundable' wherever they occur, the words 'compoundable when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prosecution is pending' shall be substituted."

The motion was adopted.

Dr. Katju: This is the concluding stage of this great debate. I need not say that my heart is rather, full. I have worked long over it. Not I alone, but, I believe hundreds of people, distinguished, learned, competent people, full of anxiety for serving the best interests of the country have worked over it. We have examined in the Ministry with the greatest care the whole of the Criminal Procedure Code, section by section. I have been assisted by my Secretaries. I have been assisted particularly by a Special Officer whom we appointed and he has rendered a most signal assistance to me. We have also been assisted by a competent legal draftsman. Shri Mallayya and Shri Sarkar have worked over it for nearly 14 months. I have already acknowledged my deepest gratitude to all the Judges of India, the Judges of the Supreme Court, Judges of the High Court, Judicial Commissioners innumerable District and Sessions Judges. Bar Associations, Central and State Governments, States Government Advocates General—they are too many to enumerate who have assisted us and favoured us with their recommendations and with their suggestions and with their criticism. The Bill does not represent the views of a single individual.

The House has been very kind to me. My hon, friends have been very kind in their references to me. My contribution has been to a certain extent. But, I have profited by what others have told me. I should like to say one thing at the outset. I claim no particular learning. But, I do claim the utmost anxiety to protect the interests of the accused and to see that justice is done in our Courts. This Parliament does not sit here for the purpose of either protecting the complainant or protecting the accused. It is interested only in seeing that a Court of justice is established where justice is rendered according to the law to the best of the capacity of the Judges, where the Judges could function entirely free from fear and render justice according to the judicial oath without fear or favour and goodwill or illwill to any party.

[Dr. Katju]

Much has been said about the police about the Magistrates, about the lawyers having visited interests, etc. I do submit that the police is our police. Please remember,—my hon. friend Shri R. D. Misra was just now referring to it—that in England, a statement in the nature of an admission or in the nature of a confession made to a police man is admissible if it is established on the police man's saying that before the making of the confession or admission, the prisoner had been warned that it might be used against him. Here, I say, it would be not only unwise but grossly unfair to the Indian police to say that every single statement is a fabricated statement. I have spent 40 years in the Bar and I know myself of cases in which it has been found that the diary was wrongly recorded. When you are reading one passage from a particular judgement, there are lakhs of cases in which the police act rightly and fairly and your whole structure of criminal justice is based upon it. What is the good of singling out a report in a country inhabited by 36 crores of people in which lakhs of cases have been decided year after year? You single out one policeman, one police *daroga* who may have gone wrong, who may have acted in a wrong manner and say, here it is.

I am not at this stage going to re-argue. We have had plenty of arguments. Hon. Members have said that they are satisfied with one particular feature of the Bill and that they are not satisfied with another feature of the Bill. But, I do claim this. Throughout the debate—it started when the Bill was introduced—I think all Members of the House have looked at it from a dispassionate angle. It has not been considered to be a Party measure. It has not been considered from a Party point of view. It has been considered by all hon. Members from a patriotic point of view. Because all of us recognise that the Criminal Procedure Code is designed to facilitate the administration of justice in a Criminal Court not in favour of one particular accused or another accused or the accused belonging to one particular party or another party or to no party. And therefore, the approach has been that justice should be administered, but I should like to say one word at once, because much has been said about investigation, about prison reform, about reform of the Magistrates. All this is necessary, should be done, but it has nothing to do with the Criminal Procedure Code. We are dealing here with one particular topic, *viz.*, as to how the case should be put before a Criminal Court,—I am afraid of talking platitudes—how the case should be started, of what cases should Magistrates take cognisance, and how the trial should take its course right up to the conclusion of the judgement, what powers should be there of the appellate Court, the revisionary Court—that is the function of the Criminal Procedure Code. A Criminal Procedure Code is not entitled to be a manual for detection of crimes. That may be the function of an institution over which a Sherlock Holmes may preside and that Sherlock Holmes may give rules and directions and guidance and teach police officers as to how to go about and detect crime and investigate crime. I have already informed the House that that topic also is under our constant attention. We are doing our best. We have appointed officers to look into it. An institute is to be opened. I believe it will be done in every State. There is already a Police Training School. That Police Training School will have a branch on detection of crime. Then there are laboratories—I mean all those additional things which are supposed to facilitate detection and observation. That is all being done. The House may be satisfied that the Government is keen about making progress. You may ask questions about it. You may show your interest in these matters by a discussion, by passing resolutions and by seeing that the Government is serious about it. But the point I am making is that it is not the Criminal Procedure Code where you can deal with these matters.

Similarly, about the separation of the judiciary from the executive.

[MR. DEPUTY-SPEAKER *in the Chair.*]

That is one of the directions of the Constitution, and as was remarked by many speakers, there is a constant movement, pressure, in every State that there should be such separation. There are States where separation has already been carried out—in Bombay, for instance. In each State something is being done in that connection. We have taken a step here that from the order of every Magistrate there shall be an appeal to a Sessions Judge, and the Sessions Judge, it is universally agreed, is not a part of the executive at all.

Similarly I believe in many States they have appointed Magistrates who are called Judicial Magistrates, and these Judicial Magistrates, though they may be appointed by Government, have nothing to do with executive functions. They discharge no executive duties. As the name indicates, their purpose is just to decide cases and do nothing else. So, the principle is sound. Government is pledged to it. The Constitution directs it. But I repeat again, it is not the function of the Criminal Procedure Code to see that is effected.

My hon. friend Shri Chatterjee and Pandit Bhargava and many others have referred to many things. One thing I really somewhat did not like about Shri Chatterjee's speech where he said—I hope not very seriously, in a jocular way—"we have secured victories". Victory pre-supposes enemies. Enemies pre-supposes two camps, I mean two armies, one army advancing and the other army retreating. That has not been my out-look.

Pandit Thakur Das Bhargava: The victory has been scored by your acceptance of the amendments.

Dr. Katju: I did not like the word "victory" at all. As I said, I do not want to argue. For instance one thing he said: "We have secured the right of cross-examination and that changes the landscape altogether". Wonderful. Now, I say that this matter had been considered in the Select Committee, and the Select Committee which also consisted of lawyers thought that it would be much better to have the evidence so recorded in the committing Magistrate's Court that it is useless against the accused, that it cannot be used against him, and therefore they said "no cross-examination". Nothing lost, because in many States the procedure is, the practice is, not to cross-examine witnesses in the commitment stage. Somewhere it is done, somewhere it is not done, but you took the other view, I said: "Very well, let us have it". Perfectly open mind. Now, the statement goes that under section 288 it can be used.

One thing I did not understand during Pandit Bhargava's speech. He said: "A charge is going to be framed against the accused on the strength of diary statements in warrant cases." Very fine debating point. But in the same breath he said that he was most anxious that there should be no intervening commitment stage at all and that......

Pandit Thakur Das Bhargava: May I just submit that my statement only referred to warrant cases, not to commitment.

Dr. Katju: Will you just sit down.

But, so far as a serious crime is concerned which goes to the Sessions Court, my hon. friend has been saying times out of number that he was in favour of no commitment stage at all, he was in favour of the police committing a case straight to the Sessions. And now, I respectfully ask what would have happened. I do not know what was done under the emergency enactment which was made in the Punjab, but just consider this. The Police submits a charge-sheet to the Sessions Court. The Sessions Judge sits down and takes the case. What has he before him? Nothing but the diary statement. Whatever charge he may make, whatever opinion he may form, he forms on the

[**Dr. Katju**]

diary statement. The diary statement today is a little better. As I said to you, the basic part of the structure that I had put forward was an examination-in-chief, an examination of all the chief prosecution witnesses, what we call eye-witnesses to the commission of the crime on oath, under section 164. The House did not like it. The Select Committee did not like it. They said such recording must be in the presence of the accused. So, we brought it over here. We brought it before the committing Court, so-called. Otherwise, it might have been any Magistrate, but let them have it I said. This House, in its wisdom, said there should be cross-examination. Very well, let them have cross-examination. But, I do submit that there is no question of a bargaining spirit here—a profit here and a profit there. The whole spirit underlying this Criminal Procedure Code is to protect the accused, so that no injury may be done to him.

I must also record my protest against one particular aspect. My hon. friend, to some extent Shri Chatterjee also, said: "Look at this. The accused can be examined by the Magistrate." I have already said, and I have always felt, that the Magistrate is the person—we presume that he is a fair and impartial man—who is there to see that the accused does not suffer in any way and the completest justice may be given to him. You may be afraid of cross-examination at the hands of the prosecuting counsel. You may say that he will have an intense desire and a longing to somehow or other entangle the accused and extract wrong statements out of him by very clever questions and cunning devices, but the Magistrate is there whose only interest is to see that justice is done. Why should you attribute a desire to him or a longing to him to entangle a man who is free, or who is innocent. I do not appreciate this. I would say to any Judge, I would leave it to him to put any question he likes. Why should he go out of his way to put curring questions?

Pandit Thakur Das Bhargava: You see your goodness reflected in every Magistrate. Magistrates are generally police-ridden in these days.

Dr. Katju: I look at Magistrates as an incarnation of justice.

Shri V. P. Nayar (Chirayinkil): That is a counter-blast.

Dr. Katju: If he errs, correct him in the Court of appeal. How many persons are acquitted and convicted on appeal? The appeals which are allowed are very few. Most of the appeals are dismissed.

There has been another tendency here, Sir, during these debates, to attribute virtue to oneself and to distribute on a large scale, in big baskets, all demerits and all devices to everybody else—police, Magistrates, lawyers. My hon. friend said every Bar Association is a den of perjury.

Pandit Thakur Das Bhargava: This is not a realistic picture which the hon. Minister is painting. He can dwell in a paradise of his own.

Dr. Katju: He called the Bar Associations 'dens of perjury'. He called the chamber of every single Magistrate a sort of 'torture chamber'.

Pandit Thakur Das Bhargava: Then why are we separating the judiciary from the Magistrate? If the Magistrates are so good, as you make them to be, why separate the judiciary from the executive and why effect police reforms and appeal to the Bar.

Dr. Katju: I have got my own notion about Magistrates.

Pandit Thakur Das Bhargava: You reflect your goodness everywhere.

Dr. Katju: I am a very virtuous man; I think good of myself, I think good of everybody else....

Shri V. P. Nayar: Question.

Shri K. K. Basu (Diamond Harbour): Question. (*Interruptions*).

Mr. Deputy-Speaker: It does not mean that others are not virtuous; they are also virtuous.

Dr. Katju: Before I sit down, I must acknowledge, shall I say, the fairness with which the Deputy Leader of the Communist Party addressed this House. He said that I should be ashamed of myself when I think of this Criminal Procedure Code....

Shri V. P. Nayar: Are you not so?

Dr. Katju: I would tell him that I am proud of it.

Mr. Deputy-Speaker: The question is:

> "That the Bill, as amended, be passed."

The Lok Sabha divided: Ayes 133; Noes 31.

Division No. 6 **AYES** **2-41 P.M.**

Abdullabhai, Mulla
Abdus Sattar, Shri
Achuthan, Shri
Agarawal, Shri H.L.
Akarpuri, Sardar
Altekar Shri
Azad, Maulana
Balakrishnan, Shri
Balasubramaniam Shri
Balmiki, Shri
Barman, Shri
Basappa, Shri
Bhagat, Shri B. R.
Bhakt Darshan, Shri
Bhargava, Pandit Thakur Das
Bhatt, Shri C.
Birbal Singh, Shri
Bogawat, Shri
Bose, Shri P. C.
Brajeshwar Prasad, Shri
Chaliha, Shri Bimlaprosad
Chandak, Shri
Charak, Th. Lakshman Singh
Chaturvedi, Shri
Chaudhary, Shri G. L.
Chaudhuri, Shri R. K.
Chaudhuri, Shri M. Shaffee
Das, Dr. M. M.
Das, Shri B.
Das, Shri B. K.
Das, Shri K.K.
Datar, Shri
Deb, Shri S.C.
Deshmukh, Shri C. D.
Deshpande, Shri G. H.
Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Digambar Singh, Shri
Dube, Shri Mulchand
Eacharan, Shri I.
Elayaperumal, Shri
Gandhi, Shri M.M.
Gandhi, Shri V. B.
Ganga Devi, Shrimati
Gounder, Shri K. S.
Hasda, Shri
Hazarika, Shri J. N.
Hem Raj, Shri
Hembrom, Shri
Iqbal Singh, Sardar
Jajware, Shri
Jangde, Shri
Jayashri, Shrimati
Jena, Shri K. C.
Jena, Shri Niranjan
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri M. D.
Kale, Shrimati A.
Kasliwal, Shri
Katju, Dr.
Keshavaiengar, Shri
Khongmen, Shrimati
Krishna Chandra, Shri
Kureel, Shri P. L.
Lal, Shri R. S.
Lallanji, Shri
Lingam, Shri N. M.
Lotan Ram, Shri
Madiah Gowda, Shri
Mahodaya, Shri
Majhi, Shri R. C.
Malliah, Shri U. S.
Malvia, Shri B. N.
Malviya, Shri Motilal
Masuodi, Maulana
Mehta, Shri Balwant Sinha
Minimata, Shrimati
Mishra, Shri Bibhuti
Mishra, Shri Lokenath
Misra, Shri R. D.
Mohd. Akbar, Sofi
Morarka, Shri
More, Shri K. L.
Nathwani, Shri N. P.
Palchoudhury, Shrimati Ila
Pande, Shri C. D.
Parikh, Shri S. G.
Pataskar, Shri
Patel, Shri B. K.
Patel, Shrimati Maniben
Patil, Shri Kanavade
Raghubir Sahai, Shri
Raghunath Singh, Shri
Ram Das, Shri
Ram Subhag Singh, Dr.
Ramananda Tirtha, Swami
Ramaswamy, Shri S. V.
Rane, Shri
Raut, Shri Bhola
Reddy, Shri Viswanatha
Roy, Shri Bishwa Nath
Sahu, Shri Rameshwar
Saksena, Shri Mohanlal
Samanta, Shri S.C.
Sankarapandian, Shri
Satish Chandra, Shri
Sewal, Shri A. R.
Shah, Shri R. N.
Sharma, Shri D.C.
Sharma, Shri R. C.
Singh, Shri M. N.
Singh, Shri T. N.
Sinha, Shri Nageshwar Prasad
Sinha, Shri Satya Narayan
Sinha, Shrimati Tarkeshwari
Sundar Lall, Shri
Suriya Prashad, Shri
Tek Chand, Shri
Telkikar, Shri
Thimmaiah, Shri
Thomas, Shri A. M.
Tiwari, Pandit B. L.
Tyagi, Shri
Upadhyay, Pandit Munishwar Datt
Upadhyay, Shri Shiva Dayal
Upadhyay, Shri S. D.
Vaishnav, Shri H. G.

NOES

Vaishya, Shri M. B.
Varma, Shri B. R.
Venkataraman, Shri
Wilson, Shri J. N.
Amjad Ali, Shri
Bagdi, Shri Magan Lal
Banerjee, Shri
Basu, Shri, K. K.
Chakravartty, Shrimati Renu
Chatterjea, Shri Tushar
Chatterjee, Shri N. C.
Chowdary, Shri C. R.
Chowdhury, Shri N. B.
Das, Shri B. C.
Dasaratha Deb, Shri
Deogam, Shri
Deshpande, Shri V. G.
Gadilingana Gowd, Shri
Gidwani, Shri
Gurupadaswamy, Shri M. S.
Kripalani, Shrimati Sucheta
More, Shri S. S.
Mukerjee, Shri H. N.
Nayar, Shri V. P.
Raghavachari, Shri
Ramnarayan Singh, Babu
Randaman Singh, Shri
Rao, Dr. Rama
Rao, Shri P. Subba
Rao, Shri T. B. Vittal
Reddi, Shri Ramachandra
Singh, Shri R. N.
Veeraswamy, Shri
Velayudhan, Shri
Verma, Shri Ramji

**The motion was adopted.*

HINDU MINORITY AND GUARDIANSHIP BILL

The Minister in the Ministry of Law (Shri Pataskar): I beg to move:

"That this House while concurring in the recommendation of the Rajya Sabha that the House do join in the Joint Committee of the House on the Bill to amend and codify certain parts of law relating to minority and guardianship among Hindus made in the motion adopted by the Rajya Sabha at its sitting held on the 25th August, 1954 and communicated to this House on the 27th August, 1954:—

(a) recommends to the Rajya Sabha that the Joint Committee be instructed to report on or before the 31st March, 1955; and

(b) resolves that the following Members of the Lok Sabha be nominated to serve on the said Joint Committee, namely; Shri Narendra P. Nathwani, Shri Moreshwar Dinkar Joshi, Shri Badshah Gupta, Shri Sohan Lal Dhusiya, Shri P. Ramaswamy, Shri B. L. Chandak, Shri Liladhar Joshi, Shri Mathura Prasad Mishra, Shri Mahendra Nath Singh, Shri Bheekha Bhai, Pandit Thakur Das Bhargava, Shri Raghubar Dayal Misra, Shri M. L. Dwivedi, Dr. M. V. Gangadhara Siva, Shri C. R. Narasimhan, Shri H. Siddananjappa, Shrimati Subhadra Joshi, Shrimati Ila Palchoudhuri, Shri Kanhu Charan Jena, Shri Bimalaprosad Chaliha. Shri Bhola Raut, Shri N. C. Chatterjee, Sardar Hukam Singh, Shri S. V. L. Narasimham, Shrimati Renu Chakravartty, Shri Anandchand, Shri Shankar Shantaram More, Shri Jaswantraj Mehta, Shri K. S. Raghavachari, Shri Bhawani Singh and the mover".

This is a motion to associate thirty Members of our House with the Joint Committee in respect of the Hindu Minority and Guardianship Bill which was considered in the Rajya Sabha. This is a simple measure and forms part of the old Hindu Code Bill which was brought forward in the Assembly in the year 1947. This relates only to one part, the question of providing for the guardianship of minors so far as the Hindus are concerned. As I said it is a part of the original Hindu Code Bill.

This Bill was first introduced in the Council of States in March 1953. Then, on 24th April, 1953, a motion was passed there that the Bill be circulated for eliciting public opinion by August 1954. After the receipt of those opinions, the Bill again was taken up in that House and the formation of the Joint Committee by both the Houses was decided upon so far as the Rajya Sabha was concerned. For the information of the House, I might state that with respect to this measure, so far as the different States in our country are concerned, 19 States have expressed their opinion in favour of such legislation. Seven have expressed no opinion; that means, at any rate, they have not opposed; and there is only one State, the State of Ajmer, which has given its opinion against the present measure.

3 P.M.

This is a matter which is, in some form or other, being considered by the present House and its predecessor, the Central Assembly, almost from the year 1941. Some Bills for the modification of Hindu law were introduced in the Central Assembly from the years 1937 to 1941. This Government, with the consent of the then Central Assembly, decided and appointed what was known as the Rau Committee in the year 1941. That Committee submitted an interim report in June 1941. Somehow or other, probably on account of the political conditions then existing in the country, nothing happened. But the same Committee was again revived in the year 1944. In 1947 that Committee submitted its report which, I think, so far as the Members of this House are concerned, they are aware of. Then the Hindu Code Bill was introduced in the Constituent Assembly (Legislative) in 1947 by the then Law Minister, Dr. Ambedkar, and it contained provisions with some slight modifications, almost similar to the provisions contained in this Bill. Subsequently, the Bill was referred to a Select Committee of the then Assembly and then in 1948 that Select Committee submitted its report. The point to which I would like to draw the attention of hon. Members is that at that time in 1948 the Select Committee also reported so far as the present measure is concerned without any large difference as to what is now being provided for in this Bill. Sometime in 1952, a reference was made to it in the speech of the President to this House that it was proposed to take up the Hindu Code in parts, because by experience they found that it was very difficult that the whole of the law could be passed at one stage and that the House would not have sufficient time to devote to these things. Now, the first part of it is with regard to marriage and divorce amongst Hindus. That Bill is much more ahead so far as progress is concerned than this Bill, because there was a Joint Select Committee upon it. That Select Committee submitted its report and the matter is being considered in the other House—the Rajya Sabha—and I hope at least during the next session that part of the Hindu Code which is waiting for sanction from this House since the year 1941 will be probably passed into law.

The next part is the minority and guardianship part and so far as this Bill is concerned, I think it is a simple measure which provides or practically codifies the law relating to the guardianship of minors so far as Hindus are concerned. As you all know, in the year 1875 the Indian Majority Act was passed and the age of majority was fixed at 18. We have also fixed in this Bill the age of majority at 18. We do not propose to make any alterations in that respect, nor to my mind is it necessary to do so. This Bill recognises natural guardians which are already recognised so far as the Hindu law is concerned. We look to the Hindu law as is now in existence on account of several rulings and decisions of the different courts.

Shri R. K. Chaudhuri (Gauhati): How can the question of minority of childern and other things come on account of Hindu law, before the marriage laws are actually passed?

An Hon. Member: It is a defect.

Shri Pataskar: It is a slight diversion, nothing more.

Shri R. K. Chaudhuri: It is an Act. You are going to have a Hindu Marriage Law. You are now having a Hindu Minority Law before it.

Mr. Deputy-Speaker: My ruling is, both these things will go on concurrently.

Shri R. K. Chaudhuri: This means that we shall have children first before marriage.

Mr. Deputy-Speaker: Order, order. There are certain matters which should not be pursued.

Shri Pataskar: This is a simple measure which is intended to supplement the provisions of the Guardians and Wards Act and it is intended to serve a specific purpose, namely, to codify the law so far as minority and guardianship among Hindus are concerned. That is the limited object with which this Bill is brought.

I would point to the hon. Members of this House that this matter is very simple compared to the matter of succession, marriage, divorce, etc. Those are very exciting things. So far as the question of minority and guardianship is concerned it is a comparatively simple matter. We are trying to follow, as far as possible, the report of the Rau Committee. The Select Committee which was appointed and which had gone through these provisions of the Hindu Code Bill thought that certain modifications had become necessary on account of the change in the circumstances.

Shri S. S. More (Sholapur): What are these modifications?

Shri Pataskar: There is a specific provision regarding *de facto* guardians whom we do not want to recognise. *De facto* guardians are recognised under Hindu Law. This Bill tries to do away with *de facto* guardians and I thnik it is a very right thing. One can understand so far as the natural guardians are concerned. Well, it is open to argument as to whether there are only two categories, two relations, which are now mentioned in the Bills or whether there should be some addition. But, I think it is wrong in principle to say that the *de facto* guardians should continue to be there, because experience has shown in many cases when an unfortunate minor loses his parents, the *de facto* guardians are not likely to take care of him properly. There may be exceptional cases. That is the only thing which might raise some controversy or discussion in this House.

With respect to natural guardians, another important provision which is made in this Bill is that the natural guardian shall not, without the previous permission of the Court mortgage or transfer by exchange or otherwise any part of the immovable property of the minor. This is in clause 7. This has been introduced because it is not desirable that natural guardians should be allowed to alienate the property of the minors without the sanction of any Court, because under the Guardian and Wards Act, if a man is declared a guardian or appointed a guardian naturally he can do so only with the permission of the Court; and we have thought it better that, by enacting this measure, it is necessary and desirable in the interests of minors that even in the case of natural guardians, there should be some provision by which they could not alienate the property of their wards without taking the permission of the Court. There is a provision in the present Court of Wards Act which is almost similar to the provision in clause 9.

So far as joint family is concerned, in order to clear misgivings in certain quarters, we have not tried to change the law. We have suggested that if there is a joint family and there is a manager, naturally in that case, a different provision has been made. I will try to mention it at a later stage, if at all a reference is made.

Then, Sir, we have also made provisions for testamentary guardians being appointed by the father if he so decides. So, I believe this is a simple measure which has been brought forward. It is in conformity with the existing law in many respects, though with slight variations. It also is in conformity with Rau Committee's Report. Other codes and the Select Committee's reports which have been considered from time to time by several committees, by the Central Assembly and this House ever since the year 1941.

It may be argued—some of them are very stock arguments—"Why is this Bill confined only to Hindus?"

Shri N. C. Chatterjee (Hooghly): It is a cogent argument.

Shri Pataskar: Why should it not apply to all. A common uniform code is no doubt our objective and if I can say so, this is a step in the right direction. Let us try to have one common uniform code for the Hindus themselves. What is the state of things so far as the minority and guardianship is concerned? At present there are so many rules and so many Acts. We want now, as far as possible to create a sort of codification of the existing provisions regarding this matter and I should say again that this is a step in the right direction. If we once get along with this, I think it would be easier to proceed with the other parts of the Hindu Code which are still left undecided.

Another argument that is advanced is: "Why have you started with the wrong end?" because we have only started with the Marriage and Divorce Bill and now we are coming to minority and guardianship. My friend Shri R. K. Chaudhuri is nodding his head.

Shri R. K. Chaudhuri: I am quite satisfied that this is the new order of things and it should happen like that.

Shri Pataskar: My point, therefore is—let not the House have any suspicions—that we are taking up the other parts of the Hindu Code. As a matter of fact, I may inform the House that the other part regarding succession will shortly come up before the House. I hope those Members who are interested in the Hindu Code reform will know it. It is for them to avoid any discussion. It is not the intention of Government to leave out those parts. They want, as far as possible, to have all the parts of the former Hindu Code before the House as early as they can.

Shri S. S. More: How many parts are we going to get?

Shri Pataskar: If my information is correct, there are four to five parts, but the most important will be that of succession after this. Then there are some minor things. But, regarding this succession, I hope it will be shortly introduced in the Rajya Sabha and it will also be brought before this House.

Shri S. S. More: Hindu Code is split up into half a dozen parts.

Shri Pataskar: As I said in the beginning, in the year 1952, with the previous experience that we had, we were all in favour of having a Hindu Code, but they found out a device by which they could see that such a Code at one stage will never be passed.

Shri S. S. More: Why? With this Majority.

Shri Pataskar: It is no question of majority.

Therefore, I think, at least those hon. Members who are really enthusiastic about getting the Hindu Code Bill passed in the form in which it has been possible with our common efforts to improve, will support this Bill. It may not satisfy every section of the House, but an earnest attempt is being made to see that at an early date, at least before our present House is dissolved, we finish all the parts of the Hindu Code.

I would, therefore, appeal to Members that this is a very simple innocuous measure and those that are interested in the reform of the Hindu society will all support this. I think we should try to see that this is passed as early as possible because I went through the history and find that already from March 1953 till today nearly more than a year and six months have elapsed and we have come only to the stage of appointing a Joint Committee which will take some time more. At least it should be in the interest of those who earnestly desire that there should be some reform on the Hindu Law, that they should co-operate and see that this Bill is passed as early as possible. It will also help in fulfilling the task which has been undertaken.

With these words I commend this motion to the House.

Mr. Deputy-Speaker: Now, I will place the motion before the House. But, I have got a small difficulty. It appears in the other House, it was said that 30 Members of the Lok Sabha should be added those 30 names are already there in the list and the hon. Minister's name is now 31st. Therefore, if one Member is dropped out that will solve my difficulty.

Shri V. P. Nayar (Chirayinkil): Drop out whichever is the last name.

Pandit Thakur Das Bhargava (Gurgaon): You may drop out my name.

Several Hon. Members: No, no.

Shri S. S. More: On a point of order, Sir. Supposing that House has prescribed a limit of membership, is it absolutely binding on us?

Mr. Deputy-Speaker: Yes. The convention is that half the number or one-third of the number of the total Members shall belong to that House and the rest, that is two-thirds of the total will belong to this House. Now, there are 15 Members of the Rajya Sabha and they have said 30 Members of this House. If you modify this, they will have to accept it once again and possibly it will come to 31.

Dr. Ram Subhag Singh (Shahabad South): If the Minister's name was not included in the Rajya Sabha, include Shri Pataskar's name there.

Shri S. S. More: The name of Shri Biswas is there.

Mr. Deputy-Speaker: Now, I leave it to the Mover to suggest.

Shri Pataskar: Pandit Thakur Das Bhargava says that he is not willing.

Pandit Thakur Das Bhargava: I want that my name should be taken away.

Mr. Deputy-Speaker: It is for the Mover to suggest what I should do.

Shri Pataskar: I would be quite happy if Pandit Thakur Das Bhargava is there, but he has explicitly told me that he should not be there. Therefore, there should be no difficulty now.

Shri Venkataraman (Tanjore): Sir, if a Member does not want to serve on the Committee for any reason whatsoever, then he has the option of staying out. Now Pandit Thakur Das Bhargava....

Several Hon. Members: No, no.

Shri Venkataraman: Sir, that is a well established procedure in this House and if Pandit Thakur Das Bhargava does not want to serve on the Committee, let him be dropped. It is not for others to say "No". He is the man to work. There is no order of performance of any contract in this respect.

The Minister of Defence Organisation (Shri Tyagi): All the Members of the House are great. I wonder if any Member can refuse to work.

Pandit Thakur Das Bhargava: Sir, the rule is that a Member must give his consent if he is to be put on the Committee. This is the rule which you have been pleased to establish. Whenever we moved a motion to that effect you required us to give the names of those who had consented. Because this motion comes from the Government, they did not ask our consent. At the same time, it is not that I am not willing to work on any Committee as my friend says. I would be too willing to become a member of any Committee and do my little bit like others. But in this case, I am desirous that my name may be scored out.

Shri K. K. Basu (Diamond Harbour): If he was not willing, he should have objected at the time of making the motion.

Shri S. S. More: Sir, we object to this because the Opposition can only be effective through Pandit Thakur Das Bhargava.

Pandit Thakur Das Bhargava: That is putting me in the wrong and I will have to cry "Protect me from my friends".

Mr. Deputy-Speaker: I have not placed the motion before the House. If the hon. Minister says, I will score out the name of Pandit Thakur Das Bhargava.

Shri Pataskar: I think Pandit Thakur Das Bhargava's name may be deleted from that list which I gave and my name included.

Mr. Deputy-Speaker: Motion moved:

> "That this House while concurring in the recommendation of the Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to amend and codify certain parts of law relating to minority and guardianship among Hindus made in the motion adopted by the Rajya Sabha at its sitting held on the 25th August, 1954 and communicated to this House on the 27th August, 1954:—
>
> (a) recommends to the Rajya Sabha that the Joint Committee be instructed to report on or before the 31st March, 1955; and
>
> (b) resolves that the following members of the Lok Sabha be nominated to serve on the said Joint Committee, namely:
>
> Shri Narendra P. Nathwani, Shri Moreshwar Dinkar Joshi, Shri Badshah Gupta, Shri Sohan Lal Dhusiya, Shri P. Ramaswamy, Shri B. L. Chandak, Shri Liladhar Joshi, Shri Mathura Prasad Mishra, Shri Mahendra Nath Singh, Shri Bheekha Bhai, Shri Raghubar Dayal Misra, Shri M. L. Dwivedi, Dr. M. V. Gangadhara Siva, Shri C. R. Narasimhan, Shri H. Siddananjappa, Shrimati Subhadra Joshi, Shrimati Ila Palchoudhuri, Shri Kanhu Charan Jena, Shri Bimalaprosad Chaliha, Shri Bhola Raut, Shri N. C. Chatterjee, Sardar Hukam Singh, Shri S. V. L. Narasimham, Shrimati Renu Chakravartty, Shri Anandchand, Shri Shankar Shantaram More,......"

He said that Pandit Thakur Das Bhargava was indispensable and if the hon. Member thinks so, there is already an option:

> "Shri Jaswantraj Mehta, Shri K. S. Raghavachari, Shri Bhawani Singh and Shri H. V. Pataskar (the Mover)."

श्री वी० जी० देशपांडे (गुना) इस विधेयक का विरोध करने के लिये आज मैं खड़ा हुआ हूं....

Shri N. C. Chatterjee: I would not like to serve on this Committee because I have a fundamental objection. Kindly remove my name. I did not know earlier that my name was included here.

Mr. Deputy-Speaker: Has not his consent been taken?

Shri N. C. Chatterjee: I hope Pandit Thakur Das Bhargava's name could be restored.

Mr. Deputy-Speaker: Am I to score out Shri Chatterjee's name? Pandit Thakurdasji goes out on account of the Minister and Shri Chatterjee goes out on his own account.

Shri Pataskar: I would say that that is not correct. I am quite willing and I would very much welcome Pandit Thakur Das Bhargava or anybody else, and even if you have two more, I have absolutely no objection. I do not want anybody's name to be scored out.

Mr. Deputy-Speaker: The rest of the names stand. One more name may be filled in and I would leave it for the Minister to consider.

Shri Raghavachari (Penukonda): At the time when the number was in excess, Pandit Thakur Das Bhargava wanted to avoid the trouble and so he stated that he would be very happy to serve and do his little bit on any Committee but this time he would request his name to be omitted. Now that Shri Chatterjee's name goes out, we may include Pandit Thakur Das Bhargava's name.

Pandit Thakur Das Bhargava: My name is already scored out by you.

Shri Pataskar: I had better keep myself out. Supposing there are sixteen....

Shri S. S. More: Shri Biswas's name is already there.

Mr. Deputy-Speaker: What shall I do?

Shri K. K. Basu: Let the decision stand over.

Mr. Deputy-Speaker: I give time to the House to consider. In the meantime, discussion may go on.

Shri Pataskar: Meanwhile I shall try and induce my friend Shri Chatterjee or Pandit Thakur Das Bhargava to accept it.

Shri V. G. Deshpande: I rise to oppose the Hindu Minority and Guardianship Bill, which has been moved by our newly appointed Law Minister. His maiden speech as a Minister has not convinced us about the necessity of this measure. He has tried to anticipate a number of arguments which are likely to come from the opposers of the Bill. The first thing he advanced was that it is hackneyed argument that this Bill is restricted to Hindus. My answer to him is that it is not a hackneyed argument, but it is a very cogent argument to which the Government Party has no answer. I have always thought about the point as to why we oppose the Hindu Code Bill. My objection is not mainly because it is a communal Bill. When I try to understand the meaning of the Hindu Code Bill, has it anything to do with the name 'Hindu'? Does it signify that it is based on Hindu traditions, Hindu ideas, personal law and values and the great culture which the Hindu society or the Hindu nation has created during the last so many centuries. When I try to think again and again this occurs to me, namely, that Government is going to introduce certain mischievous principles which it dare not apply to the Muslims, Christians, Parsis or Jews. Hindus are the only community to whom the Bill is restricted. The Law Minister has not cared to inform us or acquaint the House how all the provisions given in the Bill are based upon Hindu customs, Hindu legal traditions, etc. If he had shown to us that, as he has said, there are certain conflicting decisions of different High Courts and that this is an attempt to codify them, it is some-thing. He has not done that here. He has not shown that here a new Manu, a new Yagnavalkya or a new Vijnaneshwar has come in, who has studied and digested all the old laws of Hindus regarding minority and guardianship, and compiled them, and this is the law which we are going to introduce based upon the hoary traditions of Hindus. Had he got that much courage, had he got that much intellectual calibre, we would have considered this Bill as coming from those who believe in Hindu laws. Had he even come forward and said that "we are introducing certain reforms", then also he should have stated that "These are the Hindu principles, those are the laws which apply to Hindus from times immemorial and now these are the innovations and we want to introduce them." He should have made out a case that this is only in the case of Hindus and that these innovations are necessary only in their case. As in the case of marriage, he should have come forward and told us that polygamy is very good among the Muslims but polygamy is very bad among the Hindus, and divorce is very bad among Roman Catholics but it is very beneficial to Hindus. In that way, why should that discrimination be made? That point he should have come forward to explain with cogent arguments and then we could have understood all these modern Yagnavalkyas and Manus coming forward and telling us that Hindu law is antiquated, reactionary, out-of-date law and now we are making laws about the alienation of property for a very democratic society and progressive society where, if these laws are made, Hindu society will improve. I am not a lawyer. I have tried to read all the sections and therefore, with all humility, I approached many lawyer friends of mine and I asked them

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whether this law is based upon the Hindu principles to which this name is given. Many attempts have been made to define the word 'Hindu' and with all these, they said that this has nothing to do with Hinduism and the codification is also wrong from the point of view of jurisprudence or legalistic consideration. Apart from that, this is a direct attack on the Hindu system of law. As a law also, it is very defective, and there are many grounds on which I would like to oppose it. The first ground on which I oppose the Bill is this. The clause 4. It reads thus:

> "(a) any text, rule or interpretation of Hindu law or any custom or usage in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act;
>
> (b) any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions contained in this Act."

I am not so much against clause (b), but I certainly oppose this sub-clause (a) in clause 4. Up to this time, Hindu law was based upon texts rules, interpretation of Hindu law and custom and usage. I know that up to this time, if a lawyer could go before the Supreme Court and convince them that the decision of the High Court is opposed to the text in the *Vedas* or is opposed to any *Smriti* or any of those *Nibhandas* or *prabhandas,* he could get a judgement from the Supreme Court to the effect that anything inconsistent with *Vedas* or *Smritis* is *ultra vires.* Now, after passing clause 4, the result would be this: that all the text, will have no binding force on the personal laws of the Hindus. Hereafter, the law introduced by Shri Pataskar and supported by others will have the sanctity of *Vedic* scriptures and all other holy and sacred texts in which we have been believing. I could have accepted and I can understand that if *Vedas* can be correct Shri Pataskar also has equal right to be correct, but if the need for this law is so very great, he should make out a case and show in what respect the minors are likely to be supported. In this country I find a tendency amongst people that whenever the Hindu Code Bill comes, everybody becomes very enthusiastic and says that now we are starting a crusade against everything that is old, everything that is reactionary, everything that is feudal, and so progress will come; El Dorado will set in this world and in the 20th century we cannot accept a law which was passed in medieval ages. I want to know what is the revolutionary or progressive thing in this Hindu Minority and Guardianship Bill. Are women becoming emancipated? Are children being deserted? Are marriages being broken? What is the progressive thing, I do not know. May be some marriage laws might have some effect, some home life may be broken, but here, what is given in this Bill? I do not understand. There are many persons who have come forward to support it, because they say it is an assault and an aggression against Hindu law and that alone is the consolation to most of them. As a lawyer, I have consulted many of my friends and they have said, "Look at the provisions of this Bill." For example, according to clause 7(2):

> "The natural guardian shall not, without the previous permission of the Court—
>
> (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor;"

I have gone through the opinions expressed by different lawyers and many other organizations in the country. It is not clear that if a natural guardian is a member of the *mitakshara* joint family and if that minor has an interest in that joint family property, that man would not be able to mortgage, charge or transfer by sale, gift, exchange or otherwise, any property. Even for legal necessity, even for the education of the boy, even for the marriage of the daughter, he would not be able to sell or mortgage that property. Then, this may lead to many litigations and when we had bargained for some great progress....

Pandit Thakur Das Bhargava: May I point out to the hon. Member that in so far as the undivided interests of a minor is concerned in the Hindu joint family, this was specially excluded from clause 5.

Some Hon. Members: Clause 12.

Shri Raghavachari: May I invite your attention to clause 12? That provides for jurisdiction.

Shri V. G. Deshpande: I do not know whether I should believe in our great lawyer Pandit Thakur Das Bhargava or the other friend of mine, Shri Raghavachari. I am finding that this Hindu Minority and Guardianship Bill is making confusion worse confounded. At least among two eminent lawyers there is a difference of opinion. The point is this. We find that even if it is not a joint family property, if it is the separate interest of the minor, we feel that the permission of the Court ought not to be necessary.

Now, let us go clause by clause. In the first place, they have tried to define the persons to whom this Act applies. In this, they have said:

> "This Act applies—
>
> (a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj."

My objection to this is that this definition is defective from all points of view. In the first place, Buddhists, Jains, and Sikhs have been distinguished or separated from the rest. Secondly, I know for certain that Arya Samajists and Prarthana Samajists and similar sects mentioned in clause (b) do not regard themselves as separate from the Hindus. Under these circumstances, I do not understand the idea behind this classification under separate heads.

Acharya Kripalani (Bhagalpur *cum* Purnea): They may become separate.

Shri V. G. Deshpande: They may become separate. Tomorrow there may be separate laws.

Then, sub-clause (c) excludes only four religions. If you are a Muslim, if you are a Christian, if you are a Parsi, if you are a Jew, then, our great and progressive Government would not legislate in the sphere of their personal laws.

Shri Pataskar: May I say for the information of the hon. Member that there are no natural guardians among the Christians and Muslims. It is there only in the case of Hindus.

Shri S. S. More: Then, why not create for them also?

Shri U. M. Trivedi (Chittor): There should be something like evolution.

Shri V. G. Deshpande: In the Statement of Objects and Reasons, it is stated that this Bill is another instalment of the Hindu Code and that it deals with the law relating to minority and guardianship. The Hindu Code Bill is a big conspiracy to encroach upon the personal laws of the Hindus and they are trying to defend the Hindus to whom this Bill will apply! I know this is going to be repeated in every instalment. The Hindus are the persons who are the objects of special favour from our great Congress Government! All these progressive measures should be first applied only to the Hindus and then they will be applied to others! When we come to oppose it, we are called communalists and reactionaries or reactionary communalists, and those who support it are the secularists, non-communalists and the nationalistic legislators. They are enacting law after law, restricted to particular communities. In the defi-

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nition, it has been stated that these four communities, or religious faiths, will be excluded from the operation of the Bill. As I have said in the beginning, my main opposition is, why this personal law of the Hindus alone is being interfered with in this secular State? The Constitution has installed solemnity, guaranteed the fundamental rights to us and that no one would be discriminated on account of birth or the profession of any religion. The first great thing that is being done by our State, by the so-called progressive elements in this country is, when the unemployment in this country growing acute, months and months, and days after days are being wasted on these matters concerning vested interests, propertied interests. These are the things for which all these laws are brought in great solemnity.

Shri V. P. Nayar: The hon. Member contributes his quota to this wastage.

Shri V. G. Deshpande: All Members have got that right. That right is not restricted to some people who think that it is their monopoly and competitors are coming up to waste the time.

My contention is this. In the first place my opposition to this Bill is on principle, on the very basic principle on which these instalments are being catered to this House so liberally. We are afraid that when these two instalments have come and they are threatening us with more instalments to follow, at this very stage we must raise our voice of protest as to why they are choosing the Hindu community for this?

Acharya Kripalani: India belongs to them.

Shri V. G. Deshpande: Yes; that is my contention. Those who are moving this Bill are opposed to anything that is Hindu. I have heard it said, why do you call this Hindustan, do not call it Hindustan, you may call it Bharat or India, at least a foreign word: but not Hindustan. Attempts are made to shun everything that is Hindu except in the case of interfering with the personal laws of the Hindus. Therefore, my first objection is that the State which professes to be a secular State, a non-communal State which is making a fetish of it, is almost obsessed with the idea of starting a crusade against communalism, is itself indulging in communalism. I would not have minded even if it had communalism of the right type, if they had wanted to give good laws to the Hindus. Here, their tirade against communalism is doing injustice to a particular community.

My second objection is this. The Hindus have developed a great system of law, not only about marriage and other things; but also property; The Minority and Guardianship Act is very intimately connected with our conception of the joint family system. If Hinduism and India have any contribution to make to the economic system of the world, it is the undivided Hindu family system. When I looked at who are the guardians to be appointed, I was rather shocked. There is only the father and then the mother. Then, the whole world dies. No third relation exists. That is not my conception of my family, I fortunately belong to a family in which 96 members form an undivided Hindu family. It may become a century. It is a very common saying that time and tide and progeny stops for none. Therefore, it will become a hundred in no time.

Shri S. S. More: Does he guarantee that in one year the number will be completed.

Mr. Deputy-Speaker: The proverb may be applicable to time and tide.

Shri V. G. Deshpande: My point is, why not paternal uncle be the guardian, why not maternal uncle, why not maternal grandfather? We have been brought up in a tradition where even more than the mother, the elder brother can be the guardian. Particularly, he is looking to my property interests, and other interests. We have looked to our elder brother as our father and they have treated us with the same affection. I know, certain safeguards may be needed. But, when you think of riding rough shod over all our conceptions which we have cherished for centuries, I must rise here and record my protest.

Thirdly, why I oppose this Bill is for this reason. We are not going to tolerate this kind of interference with our personal laws in such a light manner. It is no use saying that it has been before us for the last 6 or 7 or 10 years. The Rau Committee was appointed and it collected opinions. Then it came to Parliament. The Government could not pilot it because there was opposition, as some people say, even from within the Congress itself. I think that it is both a tribute and an abuse to the Congress Party. It is a tribute in this sense that in spite of their belonging to the Congress Party, there are many Members who see reason and stand by good principles. But, it is an abuse to the Party that when they feel so keenly against injustice being done to the Hindu society, they have not the courage to rise and oppose this Bill. Even when they rise, they have not got the courage to vote against the Bill. They may manoeuvre it by indirect methods, but they do not come forward directly to oppose it. Sometimes I feel that their opposition is also based on the tempo and mood of the constituencies. When they go to their constituencies, they find that the people are opposed to this Bill. In the last Parliamentary elections, I must state it again—I know some Members have challenged me—I will ask them to refer to the newspaper reports—this was not made a specific issue. At least in the Prime Minister's constituency, Shri Prabhu Datt Brahmachari stood as a candidate and I remember very well....

Pandit Munishwar Datt Upadhyay (Pratapgarh Distt.-East): With what result?

Shri U. M. Trivedi: Seventy thousand votes against the Prime Minister is a shame. (*Interruptions*).

Shri V. G. Deshpande: No question of votes. He could have got 10 votes. My charge against the Congress Party is that they have not got the mandate from the electorate on this issue of Marriage Bill. They should have made it a specific issue in the election propaganda. They should have included it in the election manifesto and fought the elections. Not only have they failed to do so, but Shri Jawaharlal Nehru said in his speech, that the Bill is there before Parliament, it may be passed, it may not be passed; if Parliament accepts it, it may be passed, we do not know; it may not come at all before Parliament. With all his popularity,—I think there is nobody who has more popularity than him—in spite of all his popularity, what was the necessity for Shri Jawaharlal Nehru to state before his voters....

Pandit Munishwar Datt Upadhyay: That is not correct. He asserted....

Shri V. G. Deshpande: I do not yield. I am sure about what I say.

Shri Pataskar: What has this got to do with the Bill?

Shri N. C. Chatterjee: It is quite relevant.

Shri V. G. Deshpande: Here, we are representatives of the people. What is the opinion of the electorate, of the masses of this country on this piece of legislation of such far reacting importance? When the Prime Minister and Leader of the Party fights shy to make the Hindu Code Bill an issue in the elections, to say....

Pandit Munishwar Datt Upadhyay: He asserted that he was for the Bill.

Shri V. G. Deshpande: He said, I am not so keen an enthusiast....

Shri Pataskar: What has this to do......

Pandit Munishwar Datt Upadhyay: Your statement is wrong. His Allahabad statement is different from what you are saying.

Mr. Deputy-Speaker: Order, order. Let us hear the Law Minister.

Shri Pataskar: This is a social measure and it should be looked at from that point of view. It may be criticised. Bringing in the elections and what the Prime Minister said, or what somebody said is not relevant.

Pandit Munishwar Datt Upadhyay: What the Prime Minister said is quite clear.

Shri V. G. Deshpande: The Prime Minister of India when he was facing the elections in Allahabad....

Mr. Deputy-Speaker: It is said that that statement is not correct.

Shri V. G. Deshpande: I am prepared to substantiate my statement. I will tomorrow bring a copy of the papers....

Pandit Munishwar Datt Upadhyay: That is not correct.

Mr. Deputy-Speaker: The hon. Member will have a chance to speak.

Shri V. G. Despande: I say that it is quite correct. I am quite confident about my facts. Others may say that it is not correct. The electorate has been misled. I say these are measures which are of such far-reaching importance that they will affect the whole of our social fabric.

And under these circumstances I want to challange today in this House all these instalments of this Hindu Code Bill which you are passing here after the elections are over. Some people say that they did not move it because there was reaction in the party, but my case is they suspended it because the elections were coming near. After the elections are over, they are in a hurry to pass it, because they do not want to pass it when again the next elections come near. They want to pass it in between the two. After two years, when the third year is approaching they want to passs it, and they think that after two years people may forget it. They will say: "We have made some mistakes. What can be done. Now, very important problems are approaching and there is no other leader to whom you can go. Kindly vote for us." That is the strategy. That is the reason why in such a hurry these Bills are being passed. Proper scope is not being given for discussion.

My contention in the beginning was this, that even if this Bill is for ten years before the public, no proper mind has been applied to this social legislation. You want to change the laws which existed in this country for thousands of years, you were bold enough to come forward and say that you want to change the law. I can understand that people have a perfect right to say that they want to change the law, even though I do not believe that there are any laws which ought to be changed, because my own feeling is....

Mr. Deputy-Speaker: Order, order. I would like to say one word. Five hours have been fixed for the consideration of this motion. At the rate at which the hon. Member is taking, I may not be able to call upon a number of hon. Members. Therefore, with the consent of the House, I purpose to fix the maximum of half an hour for any hon. Member. But I would ordinarily expect him....

Pandit Munishwar Datt Upadhyay: Half an hour would be very long.

Mr. Deputy-Speaker: That will be for the representatives or the leaders of groups. The others may have 15 to 20 minutes at the most. And if hon. Members are willing to finish in ten minutes, the other hon. Members will have an opportunity.

Pandit Munishwar Datt Upadhyay: I think it should not be more than 15 minutes in any case.

Mr. Deputy-Speaker: The hon. Member may continue till 4 O' clock. I had to intervene as I did not tell him earlier.

Shri V. G. Deshpande: My proposal regarding all these social measures is this. For ten years lawyers have discussed it, or political partie have discussed it. That would not be enough. If there is a large volume of opinion in this country in favour of this Bill, we have seen that much more over-whelming opinion in this country is against this Bill also. We have never counted the votes. We have never gone to the electorate with this Bill. We have not taken a plebiscite or a referendum on this issue. But my approach to this problem is not only to count the votes or count the heads. When you undertake any social legislation, you have to make out a case that necessity for such social legislation exists, and for that, my main charge against this Government is this, that we have already wasted ten years in again and again bringing the same Bill and having talks about progressiveness, but we have never cared to take and collect statistics in this country. Say, for example on the question of polygamy we have not got the figures. Even though our census report says that polygamy hardly exists in this country, here we are wasting so much time as if polygamy is a great evil and a danger in this country. The reports tell us that there is hardly any polygamy in this country. In a similar manner, on every problem like this there should be some experiments, some collection of statistics, and when all the statistics are collected and some research in sociological matters is made and when a case is made out, the great sociologists the great religious pandits....

An Hon. Member: Like you.

Shri V. G. Deshpande: .... should come together and after coming together in a *parishad*, they should sit and then decide after looking to the different conditions prevailing in the country in different provinces. Without going through the conditions, without knowing the actual state of affairs in the country, we are going on enacting laws just because they are on the model of the Western countries.

Many people have talked of social reform and progress, but my view is this, that in this Hindu Minority and Guardianship Bill perhaps some of the provisions may not be so bad, but some provisions are positively dangerous; and my objection is not only to the dangerous provisions, because the hon. Minister may come and say that the Select Committee can improve if there are any reasonable suggestions, and the Law Minister would be prepared to accept them. I say if you are prepared to accept them, what are you insisting upon? My feeling is that he is insisting upon one thing, that the personal laws of Hindus have to be completely eliminated. Hereafter, nobody would talk of Vidnyaneshwar, nobody would talk of Manu, nobody would think of the *Vedas*, *Smritis* or *Grihya sutras*. Hereafter, the only thing to be considered will be the debates in Parliament, without making any experiments, without collecting any statistics, without studying any of the sociological problems. I say if you really believe that any social legislation is needed, I may accept it for argument's sake, though I have got full faith that all our laws are based upon an appreciation of the fundamental human nature. And I do not think that within 2,000 or 3,000 years or even 10,000 years human nature has so fundamentally changed that if the wife could be satisfied before 4,000 years, she would be at once discontented now because it is now 1954 or so. My feeling is that the same love, same affection, same jealousy, same hatred and the same qualities....

Mr. Deputy-Speaker: This is a Minority Bill, not on marriage.

Shri V. G. Deshpande: I am talking about the instalments of the Hindu Code Bill. I was saying there are certain fundamental human instincts on which our laws have been based. But accepting for the sake of argument that there is a case that the *Vedas* may be wrong, the *Smritis* may be wrong, our old laws may be wrong accepting it for argument's sake—I have no faith in this kind of contention—even then, if you legislate, my main charge is that all this social legislation is being taken very lightly

[Shri V. G. Deshpande]

and frivolously and with a sense of bravado to carry on a crusade against everything that is Hindu religion or what they call communal. And therefore I record my protest here that if you hurry through this kind of legislation, then within five years all the edifice built up in this country for thousands of years, the great and the beautiful institutions of the joint and undivided Hindu family......

Shri Pataskar: This does not touch the joint Hindu family at all.

Shri V. G. Deshpande: No, but by appointing guardians and restricting them to mother and father, you are attacking our notions and conceptions about the joint Hindu family. A day will come and you will create a situation when all the legislators who, for sake of looking fashionable and progressive, supported the Bill, will repent.

Shri Tek Chand (Ambala-Simla): Eschewing the vigour and the vehemence of the last speaker, this Bill deserves to be examined with closer scrutiny. Though in its ideology it may be very desirable the Bill contains certain defects which appear to my mind to be fairly patent on the record.

4 P.M.

There is clause 3 which introduces a certain departure, *viz*, that the *de facto* guardians are abolished. Now, the guardians are divided into four categories: the natural guardians, which means father and mother only, then the testamentary guardian, then the court guardian and fourthly, the Court of Wards as the guardian.

[SHRIMATI KHONGMEN *in the Chair*]

I wish that the law had recognised *de facto* guardians because that, to my mind is very important. Natural guardians are either father or, failing father, mother. But you do not treat the grandfather, whose son has died in his life time, as the natural guardians of his minor grandson. There are quite a number of cases where the son is predeceased and the only persons alive are the grandfather and the grandchild. The former is excluded. Again, there are the examples of the uncles and the elder brothers. There is no reason why they should not be able to fit in somewhere in the scheme of guardians. If you had permitted the *de facto* guardians to be recognised in law, they could be treated as such where they had been *de facto* guardians. But now, as a result of the exclusion of the *de facto* guardians, the difficulty is that very near relations have no say in the matter, unless they approach the appropriate Court of law and get themselves appointed as guardians. That, to my mind, is a very serious defect.

Then qua 'strangers' it may be a dangerous institution, I am willing to confess, but there are kindly people, generous-hearted people who like to bring up orphaned children, though not directly related to them.

Shri Pataskar: There will be no difficulty in getting themselves appointed under the Guardians and Wards Act.

Shri Tek Chand: True. If a child has been brought up by a *de facto* guardian who has been lavishing all the affection that is due to such a child, *de facto* guardianship being unknown to law, as we are going to have it, there will be some difficulty. But apart from strangers, I do contend that *de facto* guardianship should be recognised in cases of which I have already given illustrations.

Then I feel that clause 7 is open to very serious objection from the point of view of the minor. If the hon. the new Minister will read clause 7 with me and examine my comments, it may be that he may be persuaded to recast clause 7, if not altogether to delete it. Now, in sub-clause (2), the rights of the natural guardian have been taken away to alienate the property of the minor, except when he has obtained the previous permission of the Court. In the case of a lease, again, it is confined to a lease for five years at the most. Now, the position is that there are so many reasons why a minor needs, and has a pressing need for, money. In the case of a minor girl, it may be the question of her marriage. In the case of a minor boy, it may be the question of the boy's education. It may even be that the boy is a debtor and there are pressing necessities and there is the risk of the property losing value where the rights of the decree holder being vested, and the property is likely to be sold for a song. There it becomes necessary to sell a portion of the property in order to meet certain exigencies of the moment. You are taking away even the powers of the natural guardian. Clause 7 confines itself to the powers of the natural guardian. That is to say, you are enacting a law whereby the father is a suspect, whereby the mother is a suspect, and you will not allow the father of the minor boy to part with the property even if there is an imminent necessity, unless an application is made to the Court. The Court, which is already busy, fixes the case for hearing six months hence. It may take a year, it may take more time or it may take a little less, to dispose of the matter, whereas the pressing necessity cannot brook delay. In other words, the father is a suspect, mother is a suspect, but not the Court which is so busy and which has so much work to do. There you say that previous consent has to be obtained first, and previous consent may take a long time in coming.

Then in (b), you say that neither the father of the boy nor the mother of the boy can lease out the property for a period exceeding five years. Now I put it to you; suppose a minor has a good property that is likely to bring in good rent in a town like Delhi, but the lessee says: 'I am willing to give you all this rent provided I get some security of tenure—may be 10 years. may be 15 years—and I am willing to pay to the ward a tempting rent'. The father says: 'Much as I would like it, much as I find it to the advantage of my son, whose guardian I happen to be, the law prevents me, and I have to go to the Court in order to get the permission!. Within this time the prospective lessee may not be able to wait; he may turn to some other property where he can secure a longer period of lease and pay rent.

Therfore, in these two provisions that you are enacting, you are getting unnecessarily suspicious of the father and mother; you are enacting them not to the advantage of the minor but to this detriment. Detriment will follow because of the delay in obtaining permission of the Court. If this restriction had been put on guardians other than the father and the mother, on the guardian who may be a stranger or on a testamentary guardian, I might have been persuaded to accept that proposition, but when you are preventing the father and when you are preventing the mother from disposing of the property, despite pressure on the estate, despite the urgency of the need of the minor, I do not think that you are trying to pass a law which is to the behoof and advantage of the minor.

Then you will kindly see in sub-clause (4) to clause 7 another error has crept in,—but I think that is a terminological error—wherein you say:

> "No Court shall grant permission to the natural guardian to do any of the acts mentioned in sub-section (2) except in case of necessity or for an evident advantage to the minor".

I object to the word 'evident'.

Shri Pataskar: Any suitable word may be considered.

Shri Tek Chand: It should be sufficient 'if it is to the advantage of the minor'—whether the advantage is patent or the advantage is latent. You cannot say that though it is to the advantage of the minor, in so far as the advantage is not evident, the advantage is not visible, the advantage is not apparent, therefore, though principally for the....

Shri Pataskar: The hon. Member is a lawyer. I would say that looking to the provision, he would concede that if it is to be an advantage, then the advantage must be evident and not latent.

Shri Tek Chand: Advantage is an advantage. Therefore, to say that there is an advantage on the face of it, but if you go deeper and then discover the advantage, then that advantage ceases to be an advantage, is not proper. I respectfully submit that you should confine your definition to the expression 'advantage'. You leave it to the Court, you confide in your Courts; let the Court be the judge of what is advantageous. Do not insist that that advantage is only acceptable as an advantage if it is a patent advantage and not if it is a latent advantage.

Then coming to clause 9, I think you have introduced an innovation which on the face of it looks very equitable. I hope the hon. lady Members will not mind it when I subject it to criticism. You say, in the case of a testamentary guardian, he has the permission to appoint anybody as a guardian to his will, but not so if the mother of the child is alive, during her life-time. Kindly remember this. Take into consideration the illustration which I am placing for consideration of the hon. the new Minister. It is this. If the mother of the child is divorced, becomes a widow, re-marries or is divorced and then re-marries, you want her to retain her as the guardian of the minor son from the previous husband to the exclusion of any other relation living. That is to say, you would prefer her to be the guardian of her minor child from her previous husband in preference to the child's grandfather, or in preference to the child's elder brother. In fettering the powers of the testamentary guardian, you may be inflicting in certain cases upon the minor a guardian who will not look after the interests of her ward. For instance, A has a minor son and he leaves lots of properties. Mrs. A becomes a widow and re-marries a pauper—may be because of a love affair or for any other consideration—and she gives birth to three other children from the second husband. There will be an irresistable tendency on the part of this lady who has her own children from the second husband to give to her children from the second husband something out of the property of the first husband which did not belong to those children. Therefore, this provision requires very careful circumspection before you make it into law.

Then, Sir, whereas you say you are abolishing *de facto* guardians, your clause 11 when juxtaposed with clause 3 presents a conflict. Clause 3 recognises four classes of specified guardians and *de facto* guardians are excluded. Whereas clause 11 recognises *de facto* guardian as a guardian of the person, his meddling with the estate of the minor is excluded. If you are going to accept my suggestion, retain *de facto* guardians. Then this presents no difficulty. But if you are going to abolish the *de facto* guardian, then you have got to revise clause 11 so to prevent any recognition of him.

Shri Pataskar: That is the idea underlying clause 11. If it requires any change in language, we will look into it.

Shri Tek Chand: Clause 11 excludes any interference of a *de facto* guardian with respect to a minor's property. Therefore, you are, by contrast, recognising his status with respect to the person of the *de facto* guardian. This is a matter which requires a careful review and a careful re-examination.

The last thing I wish to submit is with respect to clause 2, not from the same point of view as of the previous speaker, but from a similar point. You are defining Hindus in a very curious manner. There are three classes of Hindus who are going to be governed. I was not aware of any class of Hindus except one. In (a) you say, "This Act applies to any person who is a Hindu by religion in any of its forms or developments". Put a full stop here and I am content. But then, you say, "including Lingayats, Brahmos, Prathanasamajists or Arya Samajists." As Arya Samajist, we would like to be treated as Hindus, not as Hindus by inclusion only. In other words, when you are including somebody, you are suggesting he may or may not be a Hindu; but in order to apply to him, you propose to stretch the law so as to include him. Speaking of Arya Samajists, as such, you have no right to say they are not really Hindus, but only by stretching the law a little. This clause must go.

In the case of (b), if you are going to have them nominally, then you have got to put them in clause (a). You say, Budhists, Jains or Sikhs by religion. In other words, you are contemplating two classes in (a) and (b). In (a) you say Hindus as such and Hindus by inclusion. In (b) you say, not Hindus, but persons governed by Hindu law. I am sure a Jaina or a Buddhist will be proud of the fact that he is a Hindu and he likes to be classed among them. My suggestion is that if you could delete clauses (a) and (b) and retain (c) wherein you define a Hindu as any person who would have been governed by Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed, this would serve your purpose completely and wholly without bringing in clauses (a) and (b). This is a suggestion which I commend to the Hon. Minister in all humility, but with all the emphasis at my command.

Then, you have created another difficulty in part (b) of the explanation. You say, the following persons are Hindus by religion within the meaning of this Act (b) says,

> "any child, legitimate or illegitimate, one of whose parents is a Hindu and who is brought up as a member of the tribe, community group or family to which such parent belongs or belonged".

No doubt it is seemingly just and appropriate. But you exclude the case of a child with respect to whose upbringing you cannot say whether it is a Hindu upbringing or a non-Hindu upbringing. There is bound to be a natural conflict in the case of a child, especially when he has been living away from his parents and has been, let us say, in a public school. His upbringing is like that of any other school-fellow or class-mate of his, whether he comes from Hindu parents or Muslim parents. Therefore, this is a matter which also requires a certain amount of revetting and recasting.

With these observations, I hope that the Select Committee, when they send their report, will be in a position to eliminate the objectionable features.

Shri B. C. Das (Ganjam South): The proclaimed purpose of this Bill is found in clause 13. It is mentioned there that "Welfare of the minor should be the paramount consideration". I would like to examine this Bill in the light of this declaration and see how far this saluatry provision is being adhered to in the clauses of the Bill. We should find that out.

The welfare of the children of the minor cannot be considered apart from considering the position of the parents, especially the position of the mother. We should like to get answer to certain salient questions which should form the basis of any important social legislation especially in cases of appointing guardians. We should like to find out answers to some of these questions. Who should be the natural guardian of the minor? Who is best suited to become the natural guardian? Who can, with tenderness and with full devotion bestow care on the minor children? Who can selflessly work for the development of the minor? We require answers to these questions. Whether we are prepared to concede the fact that a woman is competent to manage property; whether a woman can take care of the property of her children, is also a question that has to be answered. The right answers to these questions will lead to right solutions. If, we, like our forefathers of the feudal past, believe that women have no equality with men, that they have not the intellect nor the capacity to manage affairs, that they have not

[Shri B. C. Das]

the wisdom to know what is good even for themselves, then, naturally, we will not find fault with certain provisions of this Bill. But, if we think that women also are endowed with intelligence; women also have the same capacity as men; that they can manage the affairs of the household; that they can also manage matters pertaining to economy and management of estates, then, I am sure, we will not agree with some of the provisions of this Bill. If we believe that "The hand that rocks the cradle rules the world". If we believe that the mother is the real and natural guardian; if we believe that the mother is the only one person who can sacrifice herself completely for the children, who can devote all her time and energy selflessly for the development of her children; if we believe that the child requires sympathetic, tender and loving atmosphere for its development, then, surely, we will agree that the mother should be given a higher position than the father. I think those friends of ours who swear by our *Shastras* also should remember that in the Hindu *Shastras* also the mother has been given a higher position. When we offer *pindas* we offer more *pindas*—two or three—to the mother while we offer only one to the father. The mother is given a higher status than the father because it is the mother who can sustain the children. Of course, this Bill tacitly makes an admission that the mother is more important than the father. In this case there is a provision that till completion of the age of three a child should be under the care of the mother. Why? Because you tacitly admit that the mother alone can bestow more tenderness and more care on the development of the children than the father. But, when the question of grown-up children comes, the masculine superiority complex overpowers reason. You consider that a woman cannot manage the affairs of the son, cannot look after the interests of the minor and she is incompetent. This is something of the 18th century mind which can befit the members of the Hindu Mahasabha but cannot befit those who swear by progress; those who stand for advancement of society.

I need not go into those facts to prove that a woman deserves equal status with men. All the myth of masculine superiority has been long since exploded. Therefore, I need not go into that aspect of the question now.

In the other House, as also here, it has been admitted that this Bill is a modest attempt at codification of the existing Hindu law. There is nothing very much important or new in it. The same Hindu law that exists today is sought to be codified. Therefore, I do not think why our friends of the Hindu Mahasabha should get so much upset. There is nothing here to upset the apple-cart of orthodoxy.

Only on two points some improvement is sought to be made. One is: *de facto* guardians are sought to be abolished. The second is, the Hindu father who has now the right of excluding the mother from guardianship of the person of the minor after the death of the father will forfeit that right. But, side by side with these modest provisions we find certain retrograde provisions also introduced. One is: the father or the natural guardian when he ceases to be a Hindu will cease to be the natural guardian. According to the existing law, as has been admitted by the Law Minister in the other House, if a person ceases to be a Hindu or he changes religion, the factor of his changing religion will not be considered in his functioning as the guardian of the minor.

An Hon. Member: That is Hindu Law.

Shri B. C. Das: That is Hindu law where in practice we find persons who are not Hindus acting as guardians of Hindus.

Shri Tek Chand: How many?

Shri B. C. Das: As a compromise with reaction, getting panicky at the threats of my friends like Shri V. G. Deshpande, the Law Ministry has introduced a retrograde provision and has added that the mere fact of changing religion will automatically deprive the father of functioning as guardian, as if the only purpose of the minor is to develop as a Hindu and not as a citizen of India or as a man developed to full stature. In the existing law there is no stipulation laid down which establishes the duty of the guardian of a Hindu minor to bring up minors as Hindus. But this clause has been introduced now. These are the two provisions, retrograde provisions, now introduced in this year of grace 1954. Unfortunately, what was not there in 1920, what was not there in 1930, and what was not there even in 1940 is sought to be introduced today to placate orthodoxy and satiate reaction.

That is the unfortunate thing. So what we find ourselves is, when a social measure is introduced by the Government, we will have to welcome it, but we cannot whole-heartedly welcome it because it comes limping on crutches and loses all its grace. That is the unfortunate aspect of it. Unfortunately, because the framers of the Bill lack the social perspective, by adding certain extraneous factors, forget the main purpose of the Bill. The main purpose of the Bill, as I said, is proclaimed in clause 13, that the welfare of the children or the minor should have paramount consideration. But, here we do not see it. You are bringing in two factors irrelavent to the main purpose. Prejudice against women is brought to the fore while drafting the Bill. Your anxiety to placate reactionary forces is brought into the fore when you draft the Bill. That is why the main purpose, the paramount purpose of safeguarding the welfare of the minor is relegated to the background.

I would like to examine some of these clauses to prove my contention. Clause 5 lays down that the father, and the mother after the death of the father, should be the guardian of the minor. But, the mother can only be the guardian of the person of the minor. The mother cannot be the guardian of the property of the minor; that is the provision there. She cannot appoint a testamentary guardian for the property of the minor. If the father has already appointed a testamentary guardian even for the person of the minor she cannot appoint a testamentary guardian. These are the provisions you find in the Bill. Because you consider women to be inferior to men, you have added these provisions. Let us be realists; let us have a scientific outlook when we introduce social measures; let us not be swayed away by prejudices, by obscurantist ideas, by the fear of reaction which may threaten to scare away voters; let us try to view things from a scientific perspective. Is not the mother more solicitous, more sympathetic and more devoted than the father? Whom would the child prefer? If the child is asked this question, the child will naturally and certainly prefer the mother to the father. Why? Because the mother bestows her tender care and loving affection on the child. Why do you allow a child under three to the care of the mother? It is because you admit that the mother alone can bestow tenderness, love, sympathy, consideration and affection on the child and can help the growth of the child.

Mr. Chairman: Will the hon. Member avoid repetition?

Shri B. C. Das: I am avoiding it.

Shri P. Subba Rao (Nowrangpur): There seems to be no quorum in the House.

Mr. Chairman: Let the bell be rung. The hon. Member may now proceed.

Shri B. C. Das: If we give up our idea or sense of superiority of the masculine sex, then we will really find the right solution as to who should be appointed the guardian. Because of this compromising attitude of Government to reaction, they are landing themselves in a ludicrous position. In certain other measures there are property rights given to women, daughters, wives, etc., but as if in the

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same breath they say here that the person—mother, daughter or wife—who will be able to manage her own property, is not able to manage the property of the child. Is there any logic in it? Is it because the mother is less conscientious and less solicitous than the father that she cannot have the right to manage the property of the child? The person who can manage her own property can also manage the property of the child, and especially the mother would be a more conscientious person than the father so far as guardianship of the property is concerned. I can quote instances of women being more capable of managing economic affairs than men. We also know that in many cases where the estates were on the brink of bankruptcy by the thoughtless actions of the husband, under the management of women they were restored back to prosperity. We also know that women are better housekeepers; they know how to manage the household; they have a sense of frugality and it is the men who squander away property. That is why a great thinker of our age, George Bernard Shaw, when he wanted to address intelligent people, found only women as intelligent persons who can understand the difficulties of society. As you know, in Kerala, Manipur and other places it is women who manage property with credit. We should not forget the masculine indifference. Suppose a person gets married a second time and he has a son already, what happens? He neglects the son and leaves him to the tender mercies of the stepmother, but you will find that a woman will never leave her son, even when she is married a second time, to the tender mercies of the second husband, and for the sake of the child she will even be prepared to desert her second husband.

Another aspect I want to emphasise is this. Why should we introduce a retrograde provision by asking the father to remain a Hindu? If he changes his religion, why deprive him of his right to become the guardian of the child? Does he cease to be a father? Does he cease to be a natural guardian? According to the present law, a person even if he changes his religion, he can continue to be the guardian. What do you require? A Hindu or a citizen What is the purpose of the Bill? If you require the healthy development of a minor into a good citizen, and if your idea is only to bring about this development, even the fact of the change of religion should not be an impediment to his or her discharging the responsibilities of natural guardian. Why have you brought this in 1954? From the middle of the nineteenth century the practice is in vogue that even after a change of religion the person continues to be the guardian and his right has never been challenged. Today, why is this change brought about? It should not be done.

You are against change of religion. what does it mean? Supposing a person ceases to believe in the Hindu religion, he ceases to have faith in the Hindu religion, becomes an atheist or a rationalist, will be cease to be a Hindu? This has not been defined. Suppose a man develops a scientific outlook and does not believe in any religious practice, will it deprive him of his right to function as a guardian? Secondly, you want that the child should be brought up as a Hindu. What do you mean by 'bringing up the child as a Hindu'? Do you want that the father or the mother should every day take the child to the temple and teach him to make obeisance to the deity and chant *mantrams* there? Do you want that the child should be brought up like an orthodox Hindu? Today we all know that those who are educated very rarely go to temples or pay homage to deities. Will they be disqualified by this provision for discharging the duties of a guardian? If a particular son develops rational outlook or scientific outlook, will the father be branded as one who has discharged the responsibility of developing the child as a Hindu?

One thing of course I can concede: that a father who has changed his religion will have no right to force his own son to change his religion. The child, after he develops into a major, after he attains age and uses his own power of discretion and manages his own affairs, can change his religion. He cannot change his religion during his minority even though his father or his guardian changes his or her religion. This can be sensible and reasonable, but if you say that the mere fact of the guardian changing the religion will deprive him of his right to become the guardian of the minor it means that you are really not in earnest about the welfare of the child but merely in your confused outlook, you want to say that the child should develop into an orthodox obscuratist, paying homage to reaction, revivalism or reactionary revivalism in the land. That is the worst aspect of this Bill. I should say that the Government, when they introduce social measures, should not be timid, should not be afraid. They should be bold, they should have a clear perspective of what they intend to do. Our friends of the Hindu Mahasabha might cry hoarse and say that religion is going to pieces. Religion can take care of itself. No religion can sustain itself if it remains stuck up in the mud, if it cannot move with the people, if it cannot keep pace with the times, and a religion which cannot keep pace with the times is dead; it means its death. But if a religion can grow and flourish and change and modulate itself with the changing rhythm of the times then it can serve the people.

With these observations, I would like to say that I support this Bill. though it has defects—and I hope the Select Committee will look into the social aspect of the Bill with a clear social persepective and will analyse every clause and give the mother her rightful place and also get rid of the obscurantist provisions that are sought to be introduced to placate reaction today.

Shrimati Jayashri (Bombay-Suburban): I am thankful to you for giving me this opportunity to express my views on this measure. I congratulate the Minister for bringing in this legislation which is in line with the other progressive measures. This Bill has come to recognise the right of mother as the natural guardian of the child. However, I think that the paramount and important consideration should be given to the interests and welfare of the child rather than to the rights of the parents. In modern times, in most of the cases in courts, we find the courts recognise the mother's right and give the custody of the child to the mother. I should like to mention a few cases in which the custody of the child was given to the mother till the child attained 18 years. This case has been cited in Kaliappa Goundan *vs.* Valliammal in Madras in the *Indian Law Reports* 83, of 1950. Now, in clause 5, I would like to suggest an amendment. The amendment that I suggest is to clause 5(a). After these words, "(a) in the case of a boy or unmarried girl—the father," occurring in clause 5, I would like to suggest this: "and in case the father, though living, is unfit or unwilling or incapable,—the mother: provided that the custody of the minor who has not completed the age of fourteen years" etc. 14 years, especially for the girl, is the right age. Till that time, she should be with the mother. You are aware that the Muslim law allows the custody to the mother of her son until the age of seven and the girl till she attains the age of puberty. So, I would suggest that we could also introduce this measure in our legislation. Even Parsi and Christian laws follow the laws similar to the English law, There also, the age-limit is higher than what we have in our present legislation.

The other thing that I would like to suggest is with regard to the proviso under clause 9: "Provided that nothing in this section shall be deemed to authorise any person to act as the guardian" etc. I should say that

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this is a welcome measure, because till now, the father can deprive the mother by will and I am glad that we have got this provision so that the father cannot deprive the mother by will. I welcome this as a progressive measure.

I would next like to mention a case, Saraswathibai Shripad *vs.* Shripad Vasanji, Bombay 1941, reported in *Indian Law Reports* 455. It was held that the "father is the natural guardian of a Hindu child; if the mother is suitable and living, it is impossible to find an adequate substitute for the custody of a child of tender years and that it is in the interests of the child whose interest should be the paramount consideration with the courts, that the mother should have the custody." So all these things show that the mother is, for her love and care, the best guardian of the child. I am glad that this measure has given the right to the mother also. I hope that the Select Committee will also continue this right and raise the age-limit of the minor child.

Shri D. C. Sharma (Hoshiarpur): Some speeches have already been made on this Bill and all those speeches have struck very different notes. I have listened to the voice of Hinduism with which I have not been familiar all these years. I have listened to the voice of extreme legalism which does not suit a person like me who is at best a layman in these matters. I have also listened to the voice of extreme "progressivism" which I believe exists only in the Utopias written by some writers of very high merit. I want to bring to bear upon this Bill a midu modicum of commonsense.

I want to judge the Bill only on three counts. This Bill is called the Hindu Minority and Guardianship Bill. Evidently, it has three main pillars. First of all, there is the word Hindu in it. Then, there is the word minority. Then, there is the word guardianship. I would like to confine my remarks to these three words which are the basic words in this Bill.

It has been said that this Bill is a great onslaught on Hinduism. What is Hinduism in the eyes of those who think that this Bill is going to be disruptive of Hinduism? A very narrow, limited, circumscribed Hinduism; Hinduism which may have stood the test of social forces a thousand years ago, but a Hinduism which cannot stand the social and economic and moral challenge of society today. If I have understood Hinduism rightly, I can say that Hinduism is a very comprehensive word. It is an all-inclusive term. Just now, an hon. Member was saying, what happens if he becomes an atheist. I tell you, in the Hinduism which I know, there is room for atheists; there is room for rationalists there is room for all kinds of people. Hinduism is not a religion of the closed door; it is a religion of the open door. It is a way of life. It is not confined to dogmas and all that kind of things, to which some of my hon. friends are bound hand and foot. I congratulate the hon. Minister for making the definition of Hinduism as wide as possible and as comprehensive as possible. I think I know why these words, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj have been included in this Bill, I think I am not giving away a secret when I say that there was a time when the Arya Samajists wanted a Special Marriage Act for themselves. There was a time when the Brahmo Samajists had a Special Marriage Act for themselves. Of course, I am not an authority on Lingayats and other castes. But I can say that there are some persons who think that the followers of these isms are not true followers of Hinduisms. The orthodox people think like that. According to this measure, all these persons have been brought within the fold of Hinduism: of course, Hinduism in a social sense. I would therefore say that this Bill has done a distinct service to Hinduism by making the fold of Hinduism as wide as possible.

Again, it has been said that Hinduism is a religion where you cannot have any conversion or re-conversion. Of course, there are some reformist organisations which believe in that. I see even these have been considered in clause (c). I would therefore say that so far as the Hindus are concerned, this Bill is not going to hurt their susceptibilities in any sense of the word. No Hindu is going to think that a blow has been made on his religion. I think that all Hindus who believe in reforms of the modern age will know that in this Bill a great service has been done in the sense that the definition of 'Hindu' has been made as wide as possible in the context of the present age.

A distinct service has been done to the minors by defining the three classes of guardians. It is said that the *de facto* guardians have not been recognised. The *de facto* guardians may have their champions. But, I must say that if a survey is made in terms of this Bill in any village or town, it will show that these *de facto* guardians have sinned very often against the interests of the minors. I do not want to enumerate the relationships which exist among the Hindus. I do not say that a joint family which consists of 100 members consists of the true followers of Shri Ramachandra and that they are going to do only those things which are enjoined by our Rishis and Philosophers and prophets. It may be possible. But, my own experience and the experience of any one who walks with his eyes and ears open in any village or town will prove to him that the only real guardians of a minor in terms of relationship are his father and mother. I do not want to say anything about the paternal uncle, of grandfathers, maternal, or paternal. Very often, minors have suffered at the hands of the *de facto* guardians. Therefore, this law has done well in limiting the scope of these guardians. At the same time, I would say that the three classes of guardians that have been given here are the proper kind of natural guardians, father, mother and testamentary guardian. A person who is going to make a testament knows who is his friend and who is going to look after his relations after he has gone.

Then, there are the guardians who are appointed in the Courts. They are there under oath to behave and if they do not behave, the arm of the law is there to catch hold of them. In the same way, where there are testamentary guardians, the social consiences of the people who live around are there and they will catch hold of them. The natural guardians are there, and the blood in their veins is there to curb any tendency on their part to treat the minor in a very adverse manner. The other kinds of guardians are not going to act in the best interest of the minors.

Mr. Chairman: The hon. Member has spoken for about ten minutes. I think he can continue for five minutes tomorrow.

In the motion already placed before the House, the thirtieth Member on the Joint Select Committee will be Shri P. R. Kanavade Patil in the place of Shri N. C. Chatterjee.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 9th December, 1954.